

**UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF NEW YORK**

MORGAN FORD, ETHAN DEECHER and
GRADY HABICHT, individually and on
behalf of all others similarly situated,

Plaintiffs,

v.

RENSSELAER POLYTECHNIC
INSTITUTE,

Defendant.

1:20-cv-00470-DNH-CFH

**CONSOLIDATED AMENDED
CLASS ACTION COMPLAINT
AND JURY TRIAL DEMAND**

Plaintiffs Morgan Ford, Ethan Deecher, and Grady Habicht (“Plaintiffs”) by and through undersigned counsel, bring this action against Rensselaer Polytechnic Institute (“Defendant” or the “University”) on behalf of themselves and all others similarly situated, and make the following allegations based upon information, attorney investigation and belief, and upon Plaintiffs’ own knowledge:

PRELIMINARY STATEMENT

1. Plaintiffs bring this case as a result of Defendant’s decision not to issue appropriate refunds or adjustments for the Spring 2020 semester and The Arch 2020 summer semester after cancelling in-person classes and changing all classes to an online/remote format, closing most campus buildings, and requiring all students to leave campus as a result of the Novel Coronavirus Disease (“COVID-19”).

2. This decision deprived Plaintiffs and other members of the Classes (hereinafter defined) from recognizing the benefits of enrollment in an on-campus degree program, access to

campus facilities, student activities, housing, meals, and other benefits and services in exchange for which they had already paid fees, tuition, room and board.

3. Defendant has either refused to provide reimbursement for the tuition, fees, room, board, and other costs for access and services that Defendant failed to provide during the Spring 2020 semester and The Arch 2020 summer semester, or has provided inadequate and/or arbitrary reimbursement that does not fully compensate Plaintiffs and members of the Classes for their loss.

4. This action seeks refunds of the amount Plaintiffs and other members of the Classes are owed on a *pro-rata* basis, together with other damages as pled herein.

PARTIES

5. Plaintiffs incorporate by reference all preceding allegations as though fully set forth herein.

6. Defendant Rensselaer Polytechnic Institute is a tax-exempt not-for-profit corporation and private research university incorporated under the laws of the State of New York with a principal place of business located at 110 8th Street, in the City of Troy, County of Rensselaer, State of New York.

7. Defendant manages its own assets, sets its own tuition and fees, directs its own fiscal policy, and otherwise is responsible for the acts and omissions set forth in this Complaint.

8. Upon information and belief, Defendant has an estimated endowment of approximately \$739.6 Million.

9. According to Defendant's website, the University received \$4,828,782 in federal stimulus under the 2020 CARES Act.¹

¹ CARES Act: Coronavirus Aid, Relief and Economy Security Act of 2020 (CARES Act), Rensselaer Polytechnic Institute Website (last accessed September 3, 2020), <https://covid19.rpi.edu/cares-act>.

10. Plaintiff Morgan Ford is an individual and a resident of the State of New Jersey.

11. At all relevant times, Ms. Ford was a full-time undergraduate physics and mathematics student enrolled at Rensselaer Polytechnic Institute and was charged tuition and fees by Defendant for the Spring 2020 semester and The Arch 2020 summer semester.

12. Plaintiff Ethan Deecher is an individual and a resident of the Commonwealth of Massachusetts.

13. At all relevant times, Mr. Deecher was a full-time undergraduate engineering student enrolled at Rensselaer Polytechnic Institute and was charged tuition and fees by Defendant for the Spring 2020 semester and The Arch 2020 summer semester.

14. Plaintiff Grady Habicht is an individual and a resident of the State of Connecticut.

15. At all relevant times, Mr. Habicht was a full-time undergraduate engineering student enrolled at Rensselaer Polytechnic Institute and was charged tuition and fees by Defendant for the Spring 2020 semester and The Arch 2020 summer semester.

JURISDICTION AND VENUE

16. Plaintiffs incorporate by reference all preceding allegations as though fully set forth herein.

17. This Court has jurisdiction over this action pursuant to the Class Action Fairness Act (“CAFA”), 28 U.S.C. § 1332(d), because at least one class member is of diverse citizenship from one Defendant, there are more than 100 Class members, and the aggregate amount in controversy exceeds \$5 million, exclusive of interest and costs.

18. This Court has personal jurisdiction over Defendant because it is organized and incorporated under New York law, maintains its principal place of business in this district,

regularly and systematically transacts business in this district, and the wrongful conduct complained of in this complaint occurred in this district.

19. Venue is proper in this district pursuant to 28 U.S.C. § 1391(b) because Defendant resides in this district and a substantial part of the events or omissions giving rise to the complaint occurred in this district, and Defendant is subject to personal jurisdiction in this district.

BACKGROUND FACTS

20. Plaintiffs incorporate by reference all preceding allegations as though fully set forth herein.

21. At all relevant times, Plaintiffs Ford, Deecher and Habicht were enrolled as full-time students at Defendant's University.

22. Each of the Plaintiffs enrolled at Defendant Rensselaer Polytechnic Institute prior to the Spring 2020 semester.

23. As a precondition for enrollment, Plaintiffs were each required to and did pay substantial tuition either out of pocket or by utilizing student loan financing, as did all members of the putative Tuition Class (hereinafter defined).

24. There are hundreds, if not thousands, of institutions of higher learning in this country. Each institution markets and offers different and competing educational products.

25. Some institutions of higher learning provide curriculum and instruction that are offered on a remote basis through online programming which do not provide for physical attendance by the students. These products are significantly cheaper than competing in-person product offerings.

26. Defendant's institution markets, offers, and, promises an in-person, hands-on program complete with access to its campus facilities and services.

27. Plaintiffs and members of the proposed Tuition Class did not choose to attend another institution of higher learning, or to seek an online degree, but instead chose to attend Defendant's institution and specifically chose to enroll in the on-campus product and paid tuition and fees on that basis.

28. Defendant has recognized that the on-campus student life experience is a "vital" part of the product that it sells:²



29. Notably, in 1999, under the leadership of President Shirley Ann Jackson, Defendant developed and adopted the "Rensselaer Plan" (the "Plan"), a foundational, university-wide, administrative policy devoted to increasing the university's standing and improving the educational experience offered to its students.

30. Under the Plan, Defendant developed and subsequently marketed to its prospective and current students a unique academic experience fundamentally centered around an in-person, on-campus academic experience and related on-campus services.

31. The Plan was updated in 2013 and entitled "The Rensselaer Plan 2024."³ A copy of the Plan is annexed hereto as "*Exhibit A.*"

² *Student Experience*, Rensselaer Polytechnic Website (last accessed September 3, 2020), <https://www.rpi.edu/student-experience/>.

³ *Refreshing The Rensselaer Plan*, Rensselaer Polytechnic Website (last accessed September 3, 2020), <https://www.rpi.edu/plan/process/>.

32. Defendant's Plan states that "Under *The Rensselaer Plan 2024*, we have made "110 commitments," which the University characterizes as "We Will Statements."⁴

33. Among the most prominent of these We Will Statements is the University's commitment to "[o]ffer a complete student experience, highlighted by: Clustered Learning, Advocacy, and Support for Students (CLASS)."⁵

34. A fundamental tenet of the CLASS program as set forth in the Plan is the importance of the on-campus experience and related on-campus services to the educational experience at the University which is embodied in its emphasis on "Clustered Learning."⁶

35. At all relevant times, Defendant marketed its CLASS program to current and prospective students as "a bold, comprehensive, and holistic residential college model that provides unparalleled developmental education and support in every sphere of student life—from our revitalized residential settings to our leading-edge classrooms and laboratories."⁷

36. In describing the value of the CLASS program to students, Defendant advised prospective students on its website and in other forums that "CLASS provides a programmatic framework for strengthened counseling, unique co-op experiences, academic skills building, cultural exposure, leadership opportunities, community building, and global engagement" and notes that "Many of these activities originate within the residential setting."⁸

37. The University further described the CLASS program as one of its "unique strengths" that differentiates it as an institution of higher learning.⁹

⁴ Ex. A at p. 4.

⁵ *Id.* at p. 5.

⁶ *Id.* at p. 4.

⁷ *Id.* at p. 10.

⁸ *Id.*

⁹ *Id.* at p. 11.

38. Defendant promoted the value provided by its on-campus experience and related on-campus services to prospective students throughout the Plan and elsewhere in its marketing materials to current and prospective students.

39. For example, on its website, it promised that “[w]ith over 475 residential programs annually, students will have the opportunity to socialize with hall residents and the campus community while increasing their knowledge of Multicultural Sophistication, Intellectual Agility, and a Global View.”¹⁰

40. On its website, Defendant further marketed the value of the CLASS program to prospective and current students in an informational video that featured students engaged in a wide-range of on-campus events including working in laboratories, using the athletic facilities, and socializing in student common areas, and featured students and faculty attesting to the transformative impact of the on-campus residential academic experience.¹¹

41. Defendant promoted the importance of the on-campus residential academic experience to its CLASS program, which it described as “Residential Clustering,” on its website, stating:

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¹⁰ *Student Living and Learning*, Rensselaer Polytechnic Institute Website (last accessed September 3, 2020), <https://sll.rpi.edu/residential-commons/living-learning>.

¹¹ See *CLASS (Clustered Learning, Advocacy, and Support for Students)*, Rensselaer Polytechnic Institute Website (last accessed September 3, 2020), <https://info.rpi.edu/class>.

RESIDENTIAL CLUSTERING

To ensure that the educational and developmental needs of our students are met, Rensselaer provides unique living and learning communities for each class cohort. As a central feature of CLASS, the following commons communities exist, each with its own character and focus, creating a small, tightly knit student community that blends the academic, social, and residential aspects of university life.

Three Unique Commons at Rensselaer:

Residential Commons - On-campus residence halls, clustered by class cohort, provide students with ongoing support and guidance.

Greek Commons - A living and learning environment that cultivates leadership and personal development for Greek chapter and council members through programming and collaboration with staff and campus leaders.

Off-Campus Commons (1525 15th St.) - A place for students living off campus to engage and collaborate with the Rensselaer campus community through programs, meetings, and events.

Several affinity-based living options are also available, including “Vasudha,” centered around earth, energy, and the environment; “Leadership House,” which provides student leadership development; “Design and the Arts,” for students interested in the intersection of design, arts, media, and technology; “Wellness House,” focused on a holistic approach to health and well-being; and, beginning fall ’19, “Cultural House,” celebrating the diversity of our student community; and the “Global Experience House,” offering international views and experiences.

42. In the Plan and as part of the CLASS program, Defendant also promised that “we will . . . [p]rovide for our students an inclusive community, within a residential college model, that supports them in their personal growth and success.”¹²

43. The University further acknowledged the crucial importance of on-campus residential and recreational facilities to the student experience in the Plan, noting that “[r]esidential and recreational facilities for our students must be inviting and support a robust living/learning environment.”¹³

¹² Ex. A at p. 20.

¹³ *Id.* at p. 23.

44. In fact, Defendant deemed the on-campus, residential experience to be so critical to the overall student experience and its academic product that it mandated that all first and second year students, transfer students, and rising undergraduate juniors participating in the mandatory “The Arch” summer semester live on campus and pay fees for room and board.

45. In justifying this on-campus residential mandate, Defendant stated on its website that “[l]iving on campus is a critical component of the CLASS (Clustered Learning, Advocacy, and Support for Students) experience. It provides students with the opportunity to live, learn, and experience Rensselaer and the local Troy area with members of their cohort.”¹⁴

46. The Arch requirement for rising undergraduate juniors was promoted by Defendant in the Plan and elsewhere as another crucial and fundamental component of its academic product.

47. Defendant describes The Arch requirement on its website as follows:

“During The Arch, students remain on campus for the summer after their sophomore year, taking junior-level classes, and receive focused attention from professors at this pivotal point in their academic progression. ... Then, students leave the Troy campus for a semester during the traditional junior year—either fall or spring—to pursue their passions in the form of co-ops, internships, civic engagement, research, or international experiences. Students who pursue these opportunities during their academic career are better prepared for future professional careers and graduate school.”¹⁵

48. The Arch is a mandatory summer semester for rising undergraduate juniors that takes the place of a traditional semester during their junior year.

49. After completing The Arch requirement, students then take part in a “Semester Away” during their junior year in which they are encouraged to seek out internships and other forms of experiential learning away from the University campus.

¹⁴ *Student Living and Learning, Housing Requirement*, Rensselaer Polytechnic Institute Website (last accessed September 2, 2020), <https://sll.rpi.edu/residential-commons/housing-requirement>.

¹⁵ *The Arch, What is the Arch?*, Rensselaer Polytechnic Institute Website (last accessed September 3, 2020), <https://info.rpi.edu/arch/what-arch>.

50. Students are charged tuition and fees for The Arch semester in the same manner as for other semesters.

51. Indisputably, the Plan has achieved transformational results for Defendant, and the commitments made by the university to provide an experiential on-campus learning environment have attracted increases in enrollment and revenue to the university.

52. In this regard, in its most recently available tax return for the year ending June 2018, Defendant reported annual revenue of \$591,700,082 and total assets worth over \$1.5 billion. *See* Form 990, at Part 1(12), (20).

53. Upon information and belief, the success of the Plan and its importance to the university is also reflected in the compensation paid to the school's executive president, Dr. Shirley Ann Jackson, who is reported to be the third highest paid college official in the nation with total compensation of over \$5,000,000 annually.¹⁶

54. Accordingly, when students pay tuition in exchange for enrollment at Defendant's institution, such students expect to receive, and Defendant has promised to provide, benefits and services above and beyond basic academic instruction, which include but are not limited to:

- Face-to-face interaction with professors, mentors, and peers;
- Access to facilities such as computer labs, study rooms, laboratories, workshops, libraries, gymnasiums, athletic fields and facilities, etc.;
- Student governance and student unions;
- Extracurricular activities, groups, intramurals, etc.;
- Student performances, exhibitions, artwork, and other activities;

¹⁶ *See* Bauman et al., *Executive Compensation at Public and Private Colleges*, THE CHRONICLE OF HIGHER EDUCATION, Jan. 14, 2020, available at: https://www.chronicle.com/interactives/executive-compensation#id=table_private_2017.

- Exposure to community members of diverse backgrounds, cultures, and schools of thought;
- Social development and independence;
- Hands-on learning and experimentation; and
- Networking and mentorship opportunities.

55. Defendant specifically advertises that the price of tuition is intended to cover not just academic instruction, but the total college experience, including access to campus:¹⁷

Undergraduate Tuition The tuition for a normal undergraduate program is \$54,000.00 (for 12 to 23 credit hours per semester) per academic year. Any credits taken over 23 are charged at a rate of \$1,125.00 per credit hour. This includes use of apparatus, athletic fields, and gymnasium, but charges for breakage in laboratory classes are additional.

56. In addition to tuition, Defendant charges certain mandatory fees, including but not limited to a mandatory Activity Fee and a Health Center Fee.

57. The Activity Fee is described as a fee for access to Union membership privileges, which membership privileges include, but are not limited to:¹⁸

- Club Activities;
- Leadership Opportunities;
- Campus-wide Programming;
- Recreation;
- Performing Arts; and
- Fitness Activities

¹⁷ *Rensselaer Catalog 2019-20: Tuition and Fees*, Rensselaer Polytechnic Institute Website (last accessed September 3, 2020) <http://catalog.rpi.edu/content.php?catoid=20&navoid=490>.

¹⁸ *Id.*

58. For example, these funds are partially allocated to the Mueller Center, which Defendant markets as offering “52 club sports programs, 38 intramural and outdoor education programs, and houses a 5,000 ft² fitness center, two weight rooms, and dance/fitness rooms.”¹⁹

59. The Health Center Fee is intended to provide students physical access to the Student Health Center.²⁰

60. In addition to the broad-based mandatory fees described above, Defendant charges a myriad of other program or course specific fees, together with optional fees for additional services and activities.

61. For example, plaintiff Ford paid a fee for membership in the school dance club and plaintiff Deecher paid a fee for intramural sports.

62. Plaintiffs and members of the Fees Class were required to and did pay all mandatory, program or course specific, and other fees associated with the Spring 2020 and The Arch 2020 semesters.

63. Additionally, prior to the Spring 2020 semester, Plaintiffs paid “Room and Board” fees to reside in campus housing and for a meal plan providing for on-campus dining.

64. As more fully set forth below, Plaintiffs’ education was changed from in-person, hands-on learning to online instruction during the Spring 2020 term.

65. At Defendant’s request and direction, Plaintiffs moved out of on-campus housing and did not have access to any meals under their meal plans, facilities, activities, services, or other opportunities.

¹⁹ *Rensselaer Union: Union Affiliates*, Rensselaer Polytechnic Institute Website (last accessed September 3, 2020), <https://info.rpi.edu/rensselaer-union/union-affiliates/#MuellerCenter>.

²⁰ *Rensselaer Catalog 2019-20: Tuition and Fees*, Rensselaer Polytechnic Institute Website (last accessed September 3, 2020) <http://catalog.rpi.edu/content.php?catoid=20&navoid=490>.

66. When this happened, Plaintiffs were forced from campus and deprived of the benefit of the bargain for which they enrolled at the University, and in exchange for which Defendant had accepted, tuition and fees as set forth more fully herein.

67. As a result of being denied access to the University campus, Plaintiffs and members of the Subclasses (hereinafter defined) lost the benefit of on-campus educational instruction, facilities and services.

68. For example, Plaintiffs were denied the benefit of in-person instruction from professors and teaching assistants; could not access on-campus laboratories, computers, technical equipment or recreational facilities; could not participate in student activities and events; and were not able to seek basic on-campus health and treatment services.

FACTUAL ALLEGATIONS

69. Plaintiffs incorporate by reference all preceding allegations as though fully set forth herein.

70. Upon information and belief, Defendant's Spring 2020 term began with the first day of classes on or about January 13, 2020.²¹

71. Upon information and belief, Defendant's Spring 2020 term was scheduled to conclude with the last day of examinations on or about May 8, 2020 and commencement ceremonies on May 23, 2020.²²

72. Accordingly, Defendant's Spring semester was scheduled and contracted to consist of approximately 116 days.

²¹ *Academic Calendar*, Rensselaer Polytechnic Institute Website (last accessed April 2020), <https://info.rpi.edu/registrar/academic-calendar>.

²² *Id.*

73. However, as a result of the COVID-19 pandemic, Defendant announced on March 10, 2020 that it was immediately cancelling all university-sponsored events, including “events sponsored by student organizations.”²³

74. That same date, Defendant announced that all in-person classes would move exclusively to online instruction on March 16, 2020.²⁴

75. The following day, March 11, 2020, Defendant began requiring students to move out of on-campus housing.²⁵

76. Based on the dates set forth above, upon information and belief, Defendant’s move to online classes and constructive eviction of students on March 11, 2020 deprived Plaintiffs and other members of the Classes from access to campus facilities, services, and in-person instruction for approximately 55% of the semester for which they had contracted.

77. Although Defendant continued to offer some level of academic instruction via online classes, Plaintiffs and members of the proposed Tuition Class were deprived of the benefits of on-campus enrollment for which they paid as set forth more fully above.

78. In addition, Defendant announced that the mandatory upcoming summer 2020 “The Arch” semester for rising undergraduate juniors would also be subject to the same online instruction and restrictions.

79. If Plaintiffs failed to pay Defendant tuition and fees for The Arch 2020 online program, then Plaintiffs would be disenrolled from the University and be required to reapply for admission.

²³ *Latest Updates: COVID-19 (Coronavirus)*, Rensselaer Polytechnic Institute Website (last accessed April 2020), <https://covid19.edu/announcements/coronavirus-covid-19-rensselaer-suspends-all-person-instruction>.

²⁴ *Id.*

²⁵ *Id.*

80. As stated on Defendant's website²⁶:

ACADEMICS FAQs

— WHAT WILL HAPPEN IF STUDENTS DECIDE NOT TO DROP COURSES FOR THE ARCH SUMMER TERM? IS THE ARCH OPTIONAL, NOW THAT IT'S ONLINE?

The Arch at Rensselaer is a required summer term semester of instruction for rising juniors, followed by a semester away. It is *not* optional due to the pandemic concerns. Students who do not enroll in summer courses or drop all courses prior to the start of the summer semester will be placed on an administrative leave of absence and will need to go through the readmission process to re-enroll at Rensselaer.

81. Plaintiffs and other rising undergraduate juniors at the University were charged tuition and fees for The Arch 2020 semester in the same manner as for the Spring 2020 semester.

82. Defendant has refused, and continues to refuse, to offer any refund whatsoever with respect to the tuition that Plaintiffs paid for the Spring 2020 and The Arch 2020 semesters.

83. Likewise, Plaintiffs and members of the proposed Fees Class were deprived of utilizing services for which they paid, such as access to campus facilities, student activities, health services and other opportunities.

84. Nonetheless, Defendant has also refused and continues to refuse to offer any refund whatsoever with respect to the fees it collected.

85. Defendant has announced that it will be issuing refunds for Spring 2020 room and board fees. However, Defendant has arbitrarily decided to reduce these refunds by the net of students' financial aid from the University.

²⁶ *Latest Updates COVID-19 (Coronavirus): Arch Summer 2020 - General FAQs*, Rensselaer Polytechnic Institute Website (last accessed September 3, 2020), <https://covid19.rpi.edu/students/arch-summer-2020>.

86. This refund policy is unfair, arbitrary, and wholly insufficient to justly and equitably compensate Plaintiffs and others similarly situated.

87. Plaintiffs' on-campus housing and meals refund was significantly less than the true *pro-rata* refund they should have been entitled to. This is because, upon information and belief, the refund was reduced pursuant to aid awards. Notwithstanding Plaintiffs' financial aid packages, they were still required to take out substantial student loans to cover the costs of their education.

88. Upon information and belief, institutional aid (both needs based and merit based) is offered as a fixed sum based upon qualification factors, and not as a percentage of total costs.

89. Stated differently, upon information and belief, Plaintiffs' financial aid amounts would have been the same regardless of whether they lived on campus or off campus, and whether or not they elected to purchase a meal plan.

90. The total amount of each of the Plaintiffs' institutional financial aid was less than the cost of their tuition alone.

91. Had Plaintiffs chosen to live off campus, they still would have to pay for the balance of tuition with student loans, as well as the mandatory and other fees.

92. Because Plaintiffs chose to live on-campus, their costs were even higher because they had to obtain additional funds and loans to cover the room and board fees.

93. Accordingly, the amount of Plaintiffs' institutional aid was applied first to their tuition bill, and was not used to cover any portion of their housing or meal fees since, upon information and belief, they would have been entitled to the same award even if they had not chosen to incur housing or meals fees.

94. This is true of all class members of the On-Campus Housing Class and the Meals Class.

95. Because Plaintiffs' institutional aid was not applied to their housing or meal costs when it was disbursed, it is unfair and unlawful for Defendant to deduct the relative value of that aid in calculating the housing and meal fee *pro-rata* refund.

CLASS ACTION ALLEGATIONS

96. Plaintiffs incorporate by reference all preceding allegations as though fully set forth herein.

97. Plaintiffs bring this action on behalf of themselves and as a class action, pursuant to the provisions of Rule 23 of the Federal Rules of Civil Procedure on behalf of the following Classes:

The Tuition Class:

All people who paid tuition for or on behalf of students enrolled in classes at the University for the Spring 2020 semester and/or The Arch 2020 summer semester but were denied live, in-person instruction and forced to use online distance learning platforms for the latter portion of that semester.

The Fees Class:

All people who paid fees for or on behalf of students enrolled in classes at the University for the Spring 2020 semester and/or The Arch 2020 summer semester.

The On-Campus Housing Class:

All people who paid the costs of on-campus housing for or on behalf of students enrolled in classes at the University for the Spring 2020 semester who moved out of their on-campus housing prior to the completion of the semester because of Defendant's policies and announcements related to COVID-19, and who did not receive a full *pro-rata* refund.

The Meals Class:

All people who paid costs for or on behalf of students for meals and on-campus dining at the University for the Spring 2020 semester, who were denied access to meals and dining prior to the completion of the semester because of Defendant's policies and announcements related to COVID-19, and who did not receive a full *pro-rata* refund.

98. Excluded from the Classes are Rensselaer Polytechnic Institute, and any of their respective members, 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. Plaintiffs reserve the right to modify or amend the Class definitions, as appropriate, during the course of this litigation.

99. Certification of Plaintiffs' claims for class-wide treatment is appropriate because Plaintiffs can prove the elements of their claims on a class-wide basis using the same evidence as would be used to prove those elements in individual actions alleging the same claims.

100. This action has been brought and may be properly maintained on behalf of the Classes proposed herein under Federal Rule of Civil Procedure 23.

Numerosity: Fed. R. Civ. P. 23(a)(1)

101. The members of the Classes are so numerous and geographically dispersed that individual joinder of all members is impracticable. Plaintiffs are informed and believe that there are thousands of members of the Classes, the precise number being unknown to Plaintiffs, but such number being ascertainable from Defendant's records. Members of the Classes 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.

Commonality and Predominance: Fed. R. Civ. P. 23(a)(2)

102. This action involves common questions of law and fact, which predominate over any questions affecting individual members of the Classes, including, without limitation:

- a. Whether Defendant engaged in the conduct alleged herein;
- b. Whether there is a difference in value between enrollment in an online distance learning program and enrollment in a live, on-campus instructional program;

- c. Whether Defendant breached its contracts with Plaintiffs and the other members of the Tuition Class by retaining the portion of their tuition representing the difference between the value of online distance learning and on-campus, in-person enrollment;
- d. Whether Defendant was unjustly enriched by retaining tuition payments of Plaintiffs and the Tuition Class representing the difference between the value of online distance learning and on-campus, in-person enrollment;
- e. Whether Defendant breached its contracts with Plaintiffs and the other members of the Fees Class by retaining fees without providing the services, benefits and/or programs the fees were contracted to cover;
- f. Whether Defendant was unjustly enriched by retaining fees of Plaintiffs and the other members of the Fees Class without providing the services, benefits and/or programs the fees were intended to cover;
- g. Whether Defendant breached its contracts with Plaintiffs and the other members of the On-Campus Housing Class by not refunding them (or the students on whose behalf they paid) the full pro-rated amount of their housing expenses when the pandemic prevented students from continuing to live on campus safely;
- h. Whether Defendant was unjustly enriched by retaining payments of Plaintiffs and the other members of the On-Campus Housing Class while students moved out of their on-campus housing;

- i. Whether Defendant breached its contracts with Plaintiffs and the other members of the Meals Class by retaining costs for food and on-campus dining without providing those services which the costs were intended to cover;
- j. Whether Defendant was unjustly enriched by retaining payments of Plaintiffs and the other members of the Meals Class without providing the food and on-campus dining options which those costs were intended to cover;
- k. Whether Defendant breached the covenant of good faith and fair dealing with Plaintiffs.
- l. Whether Defendant committed conversion as detailed above against Plaintiffs and the other members of the Tuition Class, Fees Class, On-Campus Housing Class, and/or Meals Class;
- m. Whether Defendant violated New York General Business Law § 349, § 350 et seq. as to Plaintiffs and other members of the Tuition Class, Fees Class, On-Campus Housing Class, and/or Meals Class;
- n. Whether Plaintiffs and Class Members should recover against Defendant under estoppel;
- o. Whether certification of any or all of the classes proposed herein is appropriate under Fed. R. Civ. P. 23;
- p. Whether Plaintiffs and Class members are entitled to declaratory, equitable, or injunctive relief, and/or other relief; and
- q. The amount and nature of relief to be awarded to Plaintiffs and the other members of the Classes.

Typicality: Fed. R. Civ. P. 23(a)(3)

103. Plaintiffs' claims are typical of the claims of other members of the Classes because, among other things, all such members were similarly situated and were comparably injured through Defendant's wrongful conduct as set forth herein.

Adequacy: Fed. R. Civ. P. 23(a)(4)

104. Plaintiffs are adequate representatives for the Classes because their interests do not conflict with the interests of other members of the Classes they seek to represent. Plaintiffs have retained counsel competent and experienced in complex, class action litigation and Plaintiffs are committed to vigorously prosecuting the action and have the financial resources to do so. The interests of the Classes will be fairly and adequately protected by Plaintiffs and their counsel.

Superiority: Fed. R. Civ. P. 23(b)(3)

105. A class action is superior to any other available means for the fair and efficient adjudication of this controversy, and no unusual difficulties are likely to be encountered in the management of this class action. The damages or other financial detriment suffered by Plaintiffs and other members of the Classes are relatively small compared to the burden and expense that would be required to individually litigate their claims against Defendant, so it would be impracticable for members of the Classes to individually seek redress for Defendant's wrongful conduct.

106. Even if members of the Classes could afford individual litigation, the court system likely could not. Individualized litigation creates a potential for inconsistent or contradictory judgments and increases the delay and expense to all parties and the court system. By contrast, the class action device presents far fewer management difficulties and provides the benefits of

single adjudication, economy of scale, comprehensive supervision by a single court, and finality of the litigation.

Certification of Specific Issues: Fed. R. Civ. P. 23(c)(4)

107. To the extent that any described Class herein does not meet the requirements of Rules 23(b)(2) or (b)(3), Plaintiffs seek the certification of issues that will drive the litigation toward resolution.

Declaratory and Injunctive Relief: Fed. R. Civ. P. 23(b)(2)

108. Defendant has acted or refused to act on grounds generally applicable to Plaintiffs and the other members of the Classes, thereby making appropriate final injunctive relief and declaratory relief, as described herein, with respect to the members of the Classes as a whole.

**FOR A FIRST COLLECTIVE CAUSE OF ACTION
BREACH OF CONTRACT**

(Plaintiffs and Other Members of the Tuition Class)

109. Plaintiffs incorporate by reference all preceding allegations as though fully set forth herein.

110. Plaintiffs bring this count on behalf of themselves and the Tuition Class.

111. Plaintiffs and the other members of the Tuition Class entered into a contract with Defendant which provided that Plaintiffs and other members of the Tuition Class would pay tuition for or on behalf of students and, in exchange, Defendant would enroll such students and admit them to an on-campus degree program; granting them the full rights and privileges of student status, including but not limited to access to campus facilities, access to campus activities, and live, in-person instruction in a physical classroom.

112. The terms of this contract are expressly and/or implicitly set forth by Defendant through its website, academic catalogs, student handbooks, marketing materials and other circulars, bulletins, and publications as well as through the parties' course of dealings.

113. These rights and privileges form the basis of the bargain on which prospective students agree to accept Defendant's offer of enrollment in exchange for the payment of tuition and fees.

114. Part of this bargain is the ability to be physically present on campus, and fully enjoy the facilities, services, and opportunities provided thereon.

115. This is so axiomatic and engrained into the culture of Defendant's institution that it formed the platform of Defendant's most recent 10-year Plan which sets forth the University's fundamental policies, principles, and commitments with regard to all areas of the student experience.

116. "The Rensselaer Plan 2024" was launched in 2014 as a continuation of the original 1999 Rensselaer Plan with the purpose of "building our strength, our impact, and our reputation on the principles upon which the university was established in 1824."²⁷

117. According to the Plan, "A Rensselaer education is rigorous, holistic, multifaceted, and supportive. A pedagogical approach that is multidisciplinary and that connects the classroom, design studio, or laboratory to the living environment of the students, cultivates robust and sustained learning."²⁸

118. Defendant informs its current and prospective students that "[u]nder the [Plan], we have made 110 commitments[.]"²⁹

²⁷ Ex. A at p. 4.

²⁸ *Id.* at p. 5.

²⁹ *Id.* at p. 5.

119. Among these “commitments” is Defendant’s promise that “we will . . . “[p]rovide for our students an inclusive community, within a residential college model, that supports them in their personal growth and success.”³⁰

120. In this spirit, Defendant states that it will “continue its commitment to providing an education that extends from traditional settings to every sphere of student living and learning.”³¹

121. A stated commitment of the Plan was to implement a “living/learning paradigm” known as “Clustered Learning, Advocacy, and Support for Students” otherwise known as “CLASS.”³²

122. Defendant defines the CLASS initiative as follows:³³

Stemming from our award-winning [First-Year Experience] program, we have developed a bold, comprehensive, and holistic residential college model that provides unparalleled developmental education and support in every sphere of student life—from our revitalized residential settings to our leading-edge classrooms and laboratories. CLASS builds upon both residential and time-based clustering. It supports personal growth, social and academic excellence, and preparation for leadership, by placing faculty and staff mentors and unique opportunities at the center of students’ lives. CLASS embodies these core themes: personal, professional, leadership, and cultural development; communiversity; and community. CLASS provides a programmatic framework for strengthened counseling, unique co-op experiences, academic skills building, cultural exposure, leadership opportunities, community building, and global engagement.

Many of these activities originate within the residential setting. The on-campus residential clusters (“Commons”) have live-in Commons Deans who lead theme-based programming in the residential setting. The clusters include the “Greek Commons.” The Dean of the Off-Campus Experience extends CLASS precepts to students who do not live in university housing. There are Class Deans who work with each undergraduate class, beginning in the sophomore year, to support academic, professional, and personal growth as each class progresses through its undergraduate years. Our substantive commitment to the physical well-being of students is reflected

³⁰ Ex. A at p. 20.

³¹ *Id.* at p. 6.

³² *Id.* at p. 10.

³³ *Id.*

in full-time athletic staff, the upgrade of women's ice hockey status to Division I, increased club and intramural sports offerings, and sophisticated new facilities, including the East Campus Athletic Village (ECAV).

123. Defendant promises in the Plan that “we will: offer a complete student experience highlighted by: Clustered Learning, Advocacy, and Support for Students (CLASS).”³⁴

124. According to Defendant, the strategic plan has been implemented as designed:³⁵

“Rensselaer is changing before our eyes...from the South Campus, to residence halls, to streetscapes, to academics, to student life, the Institute is being revitalized as never before.”

— Shirley Ann Jackson,
Ph.D. President,
Rensselaer Polytechnic
Institute

125. Defendant's website and recruitment brochures are the primary means through which Defendant targets prospective new students and attempts to influence such students to apply for enrollment at the University as opposed to other institutions of higher learning. Defendant further utilizes these methods to persuade currently enrolled students to continue their enrollment at the University.

126. Throughout these publications, Defendant heavily markets the CLASS experience:³⁶

³⁴ Ex. A at p. 4.

³⁵ *Office of the President: Vision & Priorities*, Rensselaer Polytechnic Website (last accessed September 3, 2020), <https://president.rpi.edu/vision-priorities>.

³⁶ *CLASS (Clustered Learning, Advocacy, and Support for Students)*, Rensselaer Polytechnic Website (last accessed September 3, 2020), <https://info.rpi.edu/class>.



A Network of Support »

"CLASS helped me realize that the Rensselaer community is there to meet my needs as a student, a growing leader, and a peer. Everyone is united by this initiative, which creates a diverse and unique campus."

–Izabela Biedo '14

Industrial and Management Engineering

127. When visitors enter the “Student Living and Learning” page on Defendant’s main website (<https://sll.rpi.edu/>), they are greeted with the following promises, among others:

CLASS

CLASS (Clustered Learning, Advocacy, and Support for Students) is comprehensive student experience at Rensselaer built on time and location-based clustering that offers students unique growth experiences.

RESIDENCE HALLS

Our clustered-living approach makes for a robust residential community. Most first-year students live in freshman-only residence halls; sophomores can also select Greek life, while junior and senior students can live on or off campus.

DINING

Select from a range of dining options including vegan, vegetarian, kosher, halal, and organic. You can also add Flex Dollars to your meal plan to take advantage of retail outlets on campus like Panera Bread, Jazzman’s Café, and Ben & Jerry’s.

128. Defendant identified “residential clustering” as a “central feature” of CLASS that is intended to “ensure that the educational and developmental needs of our students are met.”³⁷

129. Defendant also seeks to differentiate itself from other available educational products by reference to its CLASS program, trumpeting it as one of its “unique strengths.”³⁸

³⁷ CLASS (Clustered Learning, Advocacy, and Support for Students), Rensselaer Polytechnic Website (last accessed September 3, 2020), <https://info.rpi.edu/class/class-organization/#ResidentialClustering>.

³⁸ Ex A at p. 11.

130. Moreover, Defendant advertises the increasing value of its product by reference to its on-campus facilities and infrastructure, stating that “The physical transformation of the Troy campus over the past decade has been the most externally visible sign of institutional metamorphosis. We have invested over \$725 million to provide, enhance, enable, animate, and secure the platforms, facilities, and Institute physical infrastructure for the benefit of students, faculty, and staff.”³⁹

131. Indeed, Defendant further punctuates the importance of on-campus, in-person education by *mandating* that first-year, second-year, and The Arch students live *on campus* and pay the associated costs.

132. Students seeking further information about the University can connect to Defendant through its numerous official social media accounts, and are ultimately invited to visit campus:

The best way to get a feel for the campus culture, see our state-of-the-art facilities, and meet current students and faculty is to visit campus!

133. Defendant promises prospective students on its website that “[w]ith over 475 residential programs annually, students will have the opportunity to socialize with hall residents and the campus community while increasing their knowledge of Multicultural Sophistication, Intellectual Agility, and a Global View.”⁴⁰

134. Upon information and belief, when Plaintiffs applied for admission to the University, there were no references or disclaimers in any of Defendant’s websites, circulars, bulletins, publications, brochures, or other advertisements that even referenced the possibility of

³⁹ Ex. A at p. 11.

⁴⁰ *Student Living and Learning*, Rensselaer Polytechnic Website (last accessed September 3, 2020), <https://sll.rpi.edu/residential-commons/living-learning>.

in-person classes being changed to fully online classes for any reason whatsoever after the start of a given term.

135. In fact, it is clear that, prior to the COVID-19 interruption, Defendant had no plans whatsoever to offer its in-person classes via an online delivery model. This is evident from the fact that the University had to hurriedly and ineffectively scrambled to make the switch, while acknowledging the significance and difficulty of the change.

136. Based upon these advertisements and other promises and inducements made by Defendant, those prospective students who were interested in enrolling at the University after being solicited with the marketing materials described above were invited to complete applications, and some were selected for and offered admission.

137. When a student is offered admission to the University, that student receives a number of further communications, starting with an acceptance letter that reads, in part, “[w]e look forward to welcoming you to the Rensselaer community in person.”

138. Accepted students, and their families, are invited to attend “Accepted Student Celebration Day” an admitted student day (which is hosted on Defendant’s campus) where Defendant again attempts to convince such students to accept their offers of admission by highlighting the University’s location and the many benefits of being on campus.

139. During this time, prospective students are again given a tour of campus and have the opportunity to hear from faculty and current students about all the benefits of campus life.

140. When students officially accept their offers, they are flooded with a number of other communications from the school each, again referencing the University “community” and extolling the virtues of the on-campus experience.

141. Before the start of their first semester, students are required to attend a mandatory new student orientation program on-campus.⁴¹

You will have the opportunity to meet with an academic adviser from your school/department when you are on campus at one of the six [Student Orientation](#) sessions. If you have any questions about course registration, please email newstudentreg@rpi.edu.

142. Once students make it through orientation [and for returning students], it comes time to register for classes. This is another area where Defendant specifically emphasizes the in-person nature of its educational product through the academic catalogs and course listings on the website.

143. Specifically, in the 2019-2020 Catalog, Defendant states that it provides an on-campus education at its campuses to its students that register:⁴²

Rensselaer offers more than 145 programs at the bachelor's, master's, and doctoral levels. Students are encouraged to work in interdisciplinary programs that allow them to combine scholarly work from several departments or schools. The university provides rigorous, engaging, interactive learning environments and campuswide opportunities for leadership, collaboration, and creativity at its campuses in Troy, New York, and in Hartford, Connecticut, as well as at its Southeastern Connecticut regional site and at the Center for Architecture Science and Ecology in New York City.

144. Further, it is admitted by Defendant that University has built the reputation of providing education *in the laboratory, classroom, and studio*:⁴³

During the course of almost two centuries, Rensselaer has built a reputation for providing an undergraduate education of undisputed intellectual rigor based on educational innovation in the laboratory, classroom, and studio. In more recent years,

⁴¹ *Admissions: Enrollment Guide*, Rensselaer Polytechnic Website (last accessed September 3, 2020) <https://admissions.rpi.edu/enrollment-guide/course-registration>.

⁴² *Rensselaer Catalog 2019-2020*, Rensselaer Polytechnic Website (last accessed September 3, 2020) <http://catalog.rpi.edu/content.php?catoid=20&navoid=484#overview>.

⁴³ *Id.*

145. Further in the Catalog, Defendant offers use of its many facilities to students and again presents its curriculum that requires “clustering” that are integral to the education University provides:⁴⁴

The Rensselaer experience is complemented by resources that extend beyond traditional classroom and campus boundaries. These resources include: research libraries, academic and research computing, mobile computing program, O.T. Swanson Multidisciplinary Design Laboratory, Center for Career and Professional Development, cooperative education (co-op), exchange and study abroad programs, Archer Center for Student Leadership Development, Advising and Learning Assistance Center, and the Center for Initiatives in Pre-College Education.

The university has embarked on several new initiatives designed to elevate the undergraduate experience to a new level. The new student life model is based on the concept of “Clustered Learning, Advocacy, and Support for Students” (CLASS). The CLASS initiative is a comprehensive effort built around a time-based clustering and residential commons program. It builds upon our award-winning First-Year Experience with class deans, and extends learning across the spectrum of student residential life at Rensselaer. It is based on clusters of residence halls—or commons—with faculty deans within each of the commons, with live-in commons deans, upper-class and graduate student assistants, and individual class-year deans. Within the commons experience, the program incorporates student leadership opportunities and increases interaction with faculty and adult mentors.

146. When students log on to their student portals during the registration period to select their in-person classes, each class is listed not only by description, but also by meeting time and physical classroom location.

147. Upon registration, students in many of Defendant’s programs were subject to strict personal attendance requirements as set forth in various departmental policies and handbooks, evidencing Defendant’s requirement, and the student’s acceptance of the requirement, that such students physically attend such classes on campus.

148. The fact that Defendant offered to provide, and members of the Tuition Class expected to receive, instruction on the physical campus is further evidenced by the parties’ prior course of conduct.

⁴⁴ *Rensselaer Catalog 2019-2020*, Rensselaer Polytechnic Website (last accessed September 3, 2020) <http://catalog.rpi.edu/content.php?catoid=20&navoid=484#overview>.

149. At all times relevant prior to March 11, 2020, Plaintiffs expected to receive in-person instruction.

150. Each day for the weeks and months leading up to March 11, 2020, students attended physical classrooms to receive in-person instruction, and Defendant provided such in-person instruction.

151. Likewise, upon information and belief, most students were provided with syllabi and other documents that referenced class meeting schedules, locations, and physical attendance requirements.

152. Each day for the weeks and months prior to announced closures, students had access to the full campus.

153. Accordingly, it is clear that Defendant offered to provide live, in-person education, together with a full on-campus experience and that members of the Tuition Class applied for admission and accepted that offer by enrolling at the University, paying tuition, and attending classes prior to and during the beginning of the Spring 2020 semester.

154. Based on this mutual assent, Plaintiffs and other members of the Tuition Class fulfilled their end of the bargain when their tuition for was paid prior to the Spring 2020 semester, either out of pocket, by using student loan financing, or otherwise.

155. However, Defendant breached the contract with Plaintiffs and other members of the Tuition Class by moving all classes for the Spring 2020 semester to online distance learning platforms, and eliminating the on-campus experience without reducing or refunding tuition accordingly.

156. Defendant further breached its contract with Plaintiffs for The Arch 2020 summer semester when the University required that Plaintiffs continue to pay full tuition and fees for online

distance learning during The Arch 2020 summer semester or be disenrolled from the University whereupon Plaintiffs would then have to reapply for admission in the future.

157. Defendant stated on its COVID-19 Arch Summer 2020 webpage: “The Arch at Rensselaer is a required summer term semester of instruction for rising juniors, followed by a semester away. It is not optional due to the pandemic concerns. Students who do not enroll in summer courses or drop all courses prior to the start of the summer semester will be placed on an administrative leave of absence and will need to go through the readmission process to re-enroll at Rensselaer.”⁴⁵

158. Defendant failed to act fairly and in good faith in its contractual dealings with Plaintiffs.

159. The acts and omissions of Defendant described above also constitute a breach of the implied covenant of good faith and fair dealing.

160. This cause of action does not seek to allege “academic malpractice.”

161. Rather, it is clear from the facts and circumstances that Defendant offered a specific product, that being live, in-person, on-campus education, with its featured ancillary and related services.

162. Plaintiffs and other members of the Tuition Class accepted Defendant’s offer and enrolled at the University prior to the Spring 2020 semester for live in-person on-campus education and paid valuable consideration in exchange.

163. However, after accepting such consideration from Plaintiffs and other members of the Tuition Class, Defendant provided a materially different product, which deprived Plaintiffs and other members of the Tuition Class of the benefit of the bargain for which they had already

⁴⁵ *Latest Updates COVID-19 (Coronavirus): Arch Summer 2020 - General FAQs*, Rensselaer Polytechnic Institute Website (last accessed September 3, 2020), <https://covid19.rpi.edu/students/arch-summer-2020>.

accepted and tendered valuable consideration, including but not limited to Plaintiff's choice of Defendant's institution for their degree program to the exclusion of other academic opportunities.

164. Defendant further required Plaintiffs to pay tuition for The Arch 2020 summer semester, without any adjustment in price, or be disenrolled from the University.

165. Defendant charged and retained tuition monies paid by Plaintiffs and other members of the Tuition Class, without providing them the full benefit and value of an on-campus academic education which they bargained for.

166. Plaintiffs Ford, Deecher and Habicht each paid tuition to Defendants for the Spring 2020 and The Arch 2020 semesters.

167. The University's tuition charge for the Spring 2020 semester was \$27,000.

168. The University's tuition charge for The Arch 2020 summer semester was \$27,800.

169. Plaintiffs and other members of the Tuition Class have suffered damage as a direct and proximate result of Defendant's breach amounting to the difference in the fair market value of the services and access for which they contracted, and the services and access which they actually received.

170. As a direct and proximate result of Defendant's breach, Plaintiffs and other members of the Tuition Class are legally and equitably entitled to damages, to be decided by the trier of fact in this action, including but not limited to disgorgement of the difference between the fair market value of the online learning provided versus the fair market value of the live, in-person instruction in a physical classroom on a physical campus with all the attendant benefits for which they contracted.

**FOR A SECOND COLLECTIVE CAUSE OF ACTION
UNJUST ENRICHMENT**

(Plaintiffs and Other Members of the Tuition Class)

171. Plaintiffs incorporate by reference all preceding allegations as though fully set forth herein.

172. Plaintiffs bring this count on behalf of themselves and the Tuition Class.

173. This claim is pled in the alternative to, and to the extent it is determined a contract does not exist or otherwise apply, the contract-based claim set forth in the First Cause of Action above.

174. Plaintiffs and other members of the Tuition Class paid substantial tuition for live, in-person instruction in physical classrooms on a physical campus with all the attendant benefits.

175. Plaintiffs and other members of the Tuition Class conferred a benefit on Defendant when they paid this tuition.

176. Defendant has realized this benefit by accepting such payment.

177. However, Plaintiffs and the Tuition Class did not receive the full benefit of their bargain.

178. Instead, Plaintiffs and other members of the Tuition Class conferred this benefit on Defendant in expectation of receiving one product, *i.e.*, live in-person instruction in a physical classroom along with the on-campus experience of campus life as described more fully above, but they were provided with a materially different product carrying a different fair market value, *i.e.*, online instruction devoid of the on-campus experience, access, and services.

179. Defendant has retained this benefit, even though Defendant has failed to provide the services for which the tuition was collected, making Defendant's retention unjust under the circumstances.

180. As a result of closing campus and moving classes online, Defendant saved significant sums of money in the way of reduced utility costs, reduced maintenance and staffing requirements, reduced or eliminated hours for hourly employees, reduced or eliminated hours for paid work study students, and otherwise.

181. Simply put, it is significantly cheaper to operate a remote, online campus than a fully open physical campus. But even if it was not, it is not the product that students were offered and not the product the students expected to receive.

182. At the same time, Defendant collected and retained millions of dollars from the federal government.

183. Equity and good conscience require that the University return a portion of the monies paid in tuition to Plaintiffs and other members of the Tuition Class.

184. This cause of action does not seek to allege “academic malpractice.”

185. Defendant should be required to disgorge this unjust enrichment to the extent that Defendant has retained more than the fair market value for the product that Defendant was able to provide.

**FOR A THIRD COLLECTIVE CAUSE OF ACTION
BREACH OF CONTRACT**

(Plaintiffs and Other Members of the Fees Class)

186. Plaintiffs incorporate by reference all preceding allegations as though fully set forth herein.

187. Plaintiffs bring this count on behalf of themselves and the Fees Class.

188. In addition to tuition, Defendant charges mandatory, campus-wide fees.

189. In its publications and, particularly on its website and in its catalog, Defendant specifically describes the nature and purpose of the fees. See, supra, ¶¶ 56-62.

190. As such, it is axiomatic that the monies Plaintiffs and other members of the Fees Class paid towards this fee were intended by both the students and Defendant to cover the services for which the fee was described and billed.

191. According to Defendant, the Undergraduate Activity Fee is intended to cover:⁴⁶

- i) Club Activities;
- ii) Leadership Opportunities;
- iii) Campus wide Programming;
- iv) Recreation;
- v) Performing Arts; and
- vi) Fitness Activities

192. Additionally, the Health Center Fee provides students physical access to the Student Health Center.⁴⁷

193. Plaintiffs Ford, Deecher and Habicht each paid fees for the Spring 2020 semester and The Arch 2020 semester, including the Undergraduate Activity Fee and Health Center Fee.

194. As such, in accepting these terms and paying these fees, a contract was formed between Plaintiffs, including the Fees Class, and Defendant, which provided that Plaintiffs and other members of the Fees Class would pay these fees for or on behalf of themselves and, in exchange, Defendant would provide or make available the services, benefits and/or programs related to those fees, as promised.

195. It is undisputed that Defendant did not provide student activities, on-campus computer or lab facilities, access to recreational facilities, access to campus events, any student

⁴⁶ *Rensselaer Union*, Rensselaer Polytechnic Website (last accessed September 3, 2020), <https://info.rpi.edu/rensselaer-union>.

⁴⁷ *Rensselaer Catalog 2019-2020: Tuition and Fees: Fees*, Rensselaer Polytechnic Website (last accessed September 3, 2020), <http://catalog.rpi.edu/content.php?catoid=4&navoid=82>.

activities, or any student health and treatment services for a portion of the Spring 2020 and/or The Arch 2020 semester.

196. Plaintiffs and other members of the Fees Class fulfilled their end of the bargain when their fees were paid, either by paying out of pocket, by using student loan financing, or otherwise.

197. However, Defendant breached the contract with Plaintiffs and other members of the Fees Class by moving all classes for the Spring 2020 and The Arch semesters to online distance learning platforms, constructively evicting students from campus, closing most campus buildings and facilities, and cancelling most student activities.

198. By retaining fees paid by Plaintiffs and other members of the Fees Class, without providing them the full benefit of their bargain, Defendant has not performed its contractual obligations.

199. Defendant failed to act fairly and in good faith in its contractual dealings with Plaintiffs.

200. The acts and omissions of Defendant described above also constitute a breach of the implied covenant of good faith and fair dealing.

201. Plaintiffs and other members of the Fees Class have suffered damage as a direct and proximate result of Defendant's breach, namely being deprived of the value of the benefits, services and/or programs the fees were intended to cover.

202. As a direct and proximate result of Defendant's breach, Plaintiffs and other members of the Fees Class are legally and equitably entitled to damages, to be decided by the trier of fact in this action, including but not limited to disgorgement of the pro-rata amount of fees that were collected but for which services were not provided.

**FOR A FOURTH COLLECTIVE CAUSE OF ACTION
UNJUST ENRICHMENT**

(Plaintiffs and Other Members of the Fees Class)

203. Plaintiffs incorporate by reference all preceding allegations as though fully set forth herein.

204. Plaintiffs bring this count on behalf of themselves and the Fees Class.

205. This claim is pled in the alternative to, and to the extent it is determined a contract does not exist or otherwise apply, the contract-based claim set forth in the Third Cause of Action above.

206. Defendant has received a benefit at the expense of Plaintiffs and other members of the Fees Class to which it is not entitled.

207. Plaintiffs and other members of the Fees Class paid substantial student fees for on-campus benefits, access and services and did not receive the full benefit of the bargain.

208. Plaintiffs and the Fees Class conferred this benefit on Defendant when they paid the fees.

209. Defendant realized this benefit by accepting such payment.

210. Defendant has retained this benefit, even though Defendant has failed to provide the services, benefits and/or programs for which the fees were collected, making Defendant's retention unjust under the circumstances.

211. As a result of closing campus and moving classes online, Defendant saved significant sums of money in the way of reduced utility costs, reduced maintenance and staffing requirements, reduced or eliminated hours for hourly employees, reduced or eliminated hours for paid work study students, and otherwise.

212. Simply put, it is significantly cheaper to operate a remote, online campus than a fully open physical campus.

213. At the same time, Defendant collected and retained millions of dollars from the federal government.

214. Equity and good conscience require that Defendant return a *pro-rata* portion of the monies paid in fees to Plaintiffs and other members of the Fees Class.

215. Defendant should be required to disgorge this unjust enrichment to the extent that Defendant has retained more than the fair market value for the product that Defendant was able to provide.

**FOR A FIFTH COLLECTIVE CAUSE OF ACTION
BREACH OF CONTRACT**

(Plaintiffs and Other Members of the On-Campus Housing Class)

216. Plaintiffs incorporate by reference all preceding allegations as though fully set forth herein.

217. Plaintiffs bring this count on behalf of themselves and the On-Campus Housing Class.

218. Plaintiffs and the On-Campus Housing Class entered into a contract with Defendant which provided that Plaintiffs and other members of the On-Campus Housing Class would pay certain charges for or on behalf of students and, in exchange, the University would provide on-campus housing to those students for the duration of the Spring 2020 semesters.

219. Plaintiffs and other members of the On-Campus Housing Class fulfilled their end of the bargain when their charges for the Spring 2020 semester were paid, either out of pocket, by using student financing, or otherwise.

220. Defendant breached the contract with Plaintiffs and the On-Campus Housing Class by evicting students from on-campus housing on or about March 11, 2020, prior to the completion of the semester.

221. Defendant has acknowledged such breach and has already refunded or offered to refund some of these charges.

222. However, such refunds are arbitrary and wholly insufficient.

223. Plaintiffs' on-campus housing refund was significantly less than the true *pro-rata* refund they should have received. This is because, apparently, the refund was reduced pursuant to aid awards. Notwithstanding Plaintiffs' financial aid package, they were still required to take out substantial student loans or incur out of pocket expense to cover the costs of their education.

224. Upon information and belief, institutional aid (both needs based and merit based) is offered as a fixed sum based upon qualification factors, and not as a percentage of total costs.

225. Stated differently, upon information and belief, Plaintiffs' financial aid amount would have been the same had they lived on campus or off campus.

226. The total amount of Plaintiffs' institutional financial aid was less than the cost of just their tuition.

227. Had Plaintiffs chosen to live off campus, they still would have to pay for the balance of tuition with student loans or out of pocket, as well as the mandatory and other fees.

228. Because Plaintiffs chose to live on-campus, their costs were even higher because they had to take out additional loans or make additional out of pocket payments to cover the room charges.

229. Accordingly, the amount of Plaintiffs' institutional aid was applied first to their tuition bill, and was not used to cover any portion of their housing charges since, upon information

and belief, they would have been entitled to the same award even if they had not chosen to incur housing charges.

230. This is true of all Members of the On-Campus Housing Class.

231. Because Plaintiffs' institutional aid was not applied to their housing costs when it was disbursed, it is unfair and unlawful for Defendant to deduct the relative value of that aid in calculating the housing charge *pro-rata* refund.

232. By retaining fees paid by Plaintiffs and other members of the On-Campus Housing Class, without providing them the full benefit of their bargain, Defendant has failed to perform its contractual obligation.

233. Defendant failed to act fairly and in good faith in its contractual dealings with Plaintiffs.

234. The acts and omissions of Defendant described above also constitute a breach of the implied covenant of good faith and fair dealing.

235. Plaintiffs and other members of the On-Campus Housing Class have suffered damage as a direct and proximate result of Defendant's breach including but not limited to being deprived of the value of the benefits and services the housing charges were intended to cover, namely, housing in which to live.

236. As a direct and proximate result of Defendant's breach, Plaintiffs and other members of the On-Campus Housing Class are legally and equitably entitled to damages, to be decided by the trier of fact in this action, including but not limited to disgorgement of the *pro-rata* amount of housing charges that were collected but for which length of time housing was not provided.

**FOR A SIXTH COLLECTIVE CAUSE OF ACTION
UNJUST ENRICHMENT**

(Plaintiffs and Other Members of the On-Campus Housing Class)

237. Plaintiffs incorporate by reference all preceding allegations as though fully set forth herein.

238. Plaintiffs bring this count on behalf of themselves and the On-Campus Housing Class.

239. This claim is pled in the alternative to, and to the extent it is determined a contract does not exist or otherwise apply, the contract-based claim set forth in the Fifth Cause of Action above.

240. Defendant has received a benefit at the expense of Plaintiffs and other members of the On-Campus Housing Class to which it is not entitled.

241. Plaintiffs and other members of the On-Campus Housing Class paid substantial charges for on-campus housing.

242. Plaintiffs and other members of the On-Campus Housing Class conferred this benefit on Defendant when they paid the charges.

243. Defendant realized this benefit by accepting such payment.

244. Defendant has retained this benefit, even though Defendant has failed to provide the on-campus housing for which the charges were collected, making Defendant's retention unjust under the circumstances.

245. As a result of closing residence halls and evicting students, Defendant saved significant sums of money in the way of reduced utility costs, reduced maintenance and staffing requirements, and reduced or eliminated hours for hourly employees.

246. Simply put, it is significantly cheaper to operate a remote, online campus than a fully open physical campus.

247. At the same time, Defendant collected and retained millions of dollars from the federal government.

248. Equity and good conscience require that Defendant return a portion of the monies paid in fees to Plaintiffs and other members of the On-Campus Housing Class.

249. Defendant should be required to disgorge this unjust enrichment to the extent that Defendant has retained more than the pro-rated value for the product that Defendant was able to provide.

**FOR A SEVENTH COLLECTIVE CAUSE OF ACTION
BREACH OF CONTRACT**

(Plaintiffs and Other Members of the Meals Class)

250. Plaintiffs incorporate by reference all preceding allegations as though fully set forth herein.

251. Plaintiffs bring this count on behalf of themselves and the Meals Class.

252. Plaintiffs and the Meals Class entered into a contract with Defendant which provided that Plaintiffs and other members of the Meals Class would pay certain charges for or on behalf of students and, in exchange, the University would provide on-campus meals and dining options to those students for the duration of the Spring 2020 semester.

253. Plaintiffs and other members of the Meals Class fulfilled their end of the bargain when these charges for the Spring 2020 semester were paid either out of pocket, by using student financing, or otherwise.

254. Defendant breached the contract with Plaintiffs and other members of the Meals Class by evicting students from on-campus housing on or about March 11, 2020, and closing dining halls, prior to the completion of the Spring 2020 semester.

255. Defendant has acknowledged such breach and has already refunded or offered to refund some of these charges.

256. However, such refunds are arbitrary and wholly insufficient.

257. Plaintiffs' meal charge refund was significantly less than the true *pro-rata* refund they should have received. This is because, apparently, the refund was reduced pursuant to aid awards. Notwithstanding Plaintiffs' financial aid package, they were still required to take out substantial student loans to cover the costs of her education, or otherwise pay such costs out of pocket.

258. Upon information and belief, institutional aid (both needs based and merit based) is offered as a fixed sum based upon qualification factors, and not as a percentage of total costs.

259. Stated differently, upon information and belief, Plaintiffs' financial aid amount would have been the same regardless of whether or not they were on a meal plan.

260. The total amount of Plaintiffs' institutional financial aid was less than the cost of just their tuition.

261. Had Plaintiffs chosen not to participate in the meal plan, they still would have to pay for the balance of tuition with student loans or out of pocket, as well as the mandatory and other fees.

262. Because Plaintiffs chose to participate in the meal plan, their costs were even higher because they had to take out additional loans or make additional out of pocket payments to cover the meal charges.

263. Accordingly, the amount of Plaintiffs' institutional aid was applied first to their tuition bill, and was not used to cover any portion of their meal charges since, upon information and belief, they would have been entitled to the same award even if they had not chosen to incur meal plan charges.

264. This is true of all Members of the Meals Class.

265. Because Plaintiffs' institutional aid was not applied to their meal plan costs when it was disbursed, it is unfair and unlawful for Defendant to deduct the relative value of that aid in calculating the meal charge *pro-rata* refund.

266. By retaining fees paid by Plaintiffs and other members of the Meals Class, without providing them the full benefit of their bargain, Defendant has failed to perform its contractual obligation.

267. Defendant failed to act fairly and in good faith in its contractual dealings with Plaintiffs.

268. The acts and omissions of Defendant described above also constitute a breach of the implied covenant of good faith and fair dealing.

269. Plaintiffs and other members of the Meals Class have suffered damage as a direct and proximate result of Defendant's breach including but not limited to being deprived of the value of the benefits and services the charges were intended to cover, namely, on-campus meals and dining options.

270. As a direct and proximate result of Defendant's breach, Plaintiffs and the Meals Class are legally and equitably entitled to damages, to be decided by the trier of fact in this action, including but not limited to disgorgement of the *pro-rata* amount of meal charges that were collected but for which length of time meals were not provided.

**FOR AN EIGHTH COLLECTIVE CAUSE OF ACTION
UNJUST ENRICHMENT**

(Plaintiffs and Other Members of the Meals Class)

271. Plaintiffs incorporate by reference all preceding allegations as though fully set forth herein.

272. Plaintiffs bring this count on behalf of themselves and the Meals Class.

273. This claim is pled in the alternative to, and to the extent it is determined a contract does not exist or otherwise apply, the contract-based claim set forth in the Seventh Cause of Action above.

274. Defendant has received a benefit at the expense of Plaintiffs and other members of the Meals Class to which it is not entitled.

275. Plaintiffs and other members of the Meals Class paid substantial charges for on-campus meals and dining options.

276. Plaintiffs and other members of the Meals Class conferred this benefit on Defendant when they paid the charges.

277. Defendant realized this benefit by accepting such payment.

278. Defendant has retained this benefit, even though Defendant has failed to provide the meals and dining options for which the charges were collected, making Defendant's retention unjust under the circumstances.

279. As a result of closing dining halls and evicting students, Defendant saved significant sums of money in the way of reduced utility costs, reduced maintenance and staffing requirements, reduced food and materials costs, and reduced or eliminated hours for hourly employees.

280. Simply put, it is significantly cheaper to operate a remote, online campus than a fully open physical campus.

281. At the same time, Defendant collected and retained millions of dollars from the federal government.

282. Equity and good conscience require that Defendant return a portion of the monies paid in fees to Plaintiffs and other members of the Meals Class.

283. Defendant should be required to disgorge this unjust enrichment to the extent that Defendant has retained more than the pro-rated value for the product that Defendant was able to provide.

**FOR A NINTH COLLECTIVE CAUSE OF ACTION
CONVERSION**

(Plaintiffs and All Classes)

284. Plaintiffs incorporate by reference all preceding allegations as though fully set forth herein.

285. Plaintiffs bring this count on behalf of themselves and all members of the Tuition, Fees, On-Campus Housing, and Meals Classes.

286. The two key elements of conversion are (1) Plaintiffs' legal ownership or an immediate superior right of possession to a specific identifiable thing, and (2) Defendant's unauthorized dominion over the thing in question or interference with it, to the exclusion of Plaintiffs' rights.

287. When Plaintiffs and Class members paid tuition, fees, and other charges, such payments were made to a specific fund for specific, identifiable services.

288. Such monies were paid to Defendant only for the particular purpose for which the tuition and fees were charged.

289. Plaintiffs and members of the Classes have an identifiable legal ownership to the right to such access and services.

290. As set forth above, Defendant has not provided those services or access to the exclusion of the rights of Plaintiffs and other members of the Class.

291. Such retention was unauthorized and illegal because Defendant failed to apply the retained funds to the particular purpose for which they were paid.

292. Defendant's continued possession of the full payments made for the aforementioned tuition, fees, and other charges is adverse and in derogation of Plaintiffs' and the other Class members' entitlement to such funds.

293. Defendant refuses to remit payment for reimbursement of said tuition and fees.

294. Defendant has therefore converted and continues to convert Plaintiffs' and the other Class members' tuition and fees.

295. Accordingly, Plaintiffs and the Tuition, Fees, On-Campus Housing and Meals Classes are legally and equitably entitled to damages, to be decided by the trier of fact in this action.

**FOR A TENTH COLLECTIVE CAUSE OF ACTION
VIOLATIONS OF NY GENERAL BUSINESS LAW §§ 349, 350**

(Plaintiffs and All Classes)

296. Plaintiffs incorporate by reference all preceding allegations as though fully set forth herein.

297. Plaintiffs bring this count on behalf of themselves and other members of the Tuition, Fees, On-Campus Housing and Meals Classes.

298. Plaintiffs and the class members are consumers who purchased defendants' products and services and were subjected to unfair, misleading, false and deceptive business practices and advertising as alleged herein.

299. At all times relevant, Defendant was a private university and had a duty not to engage in unfair, misleading, false, or deceptive trade practices and/or false advertising under New York General Business Law §§ 349, 350 et. seq.

300. New York General Business Law § 349 (Deceptive Acts and Practices Unlawful) provides for consumer protection by declaring as unlawful: "Deceptive acts or practices in the conduct of any business, trade or commerce or in the furnishing of any service in this state"

301. New York General Business Law § 350 (False Advertising Unlawful) provides that: "False advertising in the conduct of any business, trade or commerce or in the furnishing of any service in this state is hereby declared unlawful."

302. Defendant, through its agents, servants, and employees, engaged in unlawful, unfair, deceptive and fraudulent acts and practices in violation of New York General Business Law §§ 349 and 350 by engaging in the activities described herein.

303. At all times relevant, Defendant through its uniform marketing and recruitment materials, including its website, academic catalogs, student handbooks, circulars, bulletins, publications and other representations, engaged in "consumer oriented" conduct directed at Plaintiffs and other members of the Classes, whereby Defendant offered to sell certain educational products and services.

304. Specifically, defendant offered to Plaintiffs and members of the Classes an in-person and on-campus academic degree program and related services, including an in-person and

hands-on curriculum; on-campus activities, services and access to facilities; on-campus housing; and meals with on-campus dining facilities.

305. Plaintiffs and other members of the Classes are consumers who enrolled at the University and paid substantial tuition and fees for said products, facilities and services prior to the Spring 2020 academic semester, including tuition costs, fees, housing costs and meal costs.

306. As part of its marketing practices and recruitment efforts, as described above, Defendant made numerous statements, representations and omissions to the public (including Plaintiffs and members of the Classes) with respect to the value and nature of the in-person educational opportunity and on-campus experience that students who enrolled at Defendant's University would receive, including but not limited to the following:

- “Designed to enrich and augment classroom and laboratory studies, the student life experience is a vital part of Rensselaer’s undergraduate education.”⁴⁸
- During the course of almost two centuries, Rensselaer has built a reputation for providing an undergraduate education of undisputed intellectual rigor based on educational innovation in the laboratory, classroom, and studio.⁴⁹
- “Under *The Rensselaer Plan 2024*, we have made 110 commitments....”⁵⁰
- “We will offer a complete student experience highlighted by Clustered Learning, Advocacy and Support for Students (CLASS).”⁵¹
- CLASS is one the University’s “unique strengths” that differentiates it as an institution of higher learning.⁵²
- CLASS (Clustered Learning, Advocacy, and Support for Students) is comprehensive student experience at Rensselaer built on time and location-based clustering that offers students unique growth experiences.⁵³

⁴⁸ *Student Experience*, Rensselaer Polytechnic Website (last accessed September 3, 2020), <https://www.rpi.edu/student-experience/>.

⁴⁹ *Rensselaer Catalog 2019-2020*, Rensselaer Polytechnic Website (last accessed September 3, 2020), <http://catalog.rpi.edu/content.php?catoid=20&navoid=484#overview>.

⁵⁰ Ex. A at p. 4.

⁵¹ *Id.* at p. 5.

⁵² *Id.* at p. 11.

⁵³ *Rensselaer Catalog 2019-2020, supra.*

- “It [CLASS] is based on clusters of residence halls—or commons—with faculty deans within each of the commons, with live-in commons deans, upper-class and graduate student assistants, and individual class-year deans. Within the commons experience, the program incorporates student leadership opportunities and increases interaction with faculty and adult mentors.”⁵⁴
- CLASS is “a bold, comprehensive, and holistic residential college model that provides unparalleled developmental education and support in every sphere of student life—from our revitalized residential settings to our leading-edge classrooms and laboratories.”⁵⁵
- “CLASS provides a programmatic framework for strengthened counseling, unique co-op experiences, academic skills building, cultural exposure, leadership opportunities, community building, and global engagement. Many of these activities originate within the residential setting.”⁵⁶
- “We will ... [p]rovide for our students an inclusive community, within a residential college model, that supports them in their personal growth and success.”⁵⁷
- “Residential Clustering. To ensure that the educational and developmental needs of our students are met, Rensselaer provides unique living and learning communities for each class cohort. As a central feature of CLASS, the following commons communities exist, each with its own character and focus, creating a small, tightly knit student community that blends the academic, social, and residential aspects of university life.”⁵⁸
- “With over 475 residential programs annually, students will have the opportunity to socialize with hall residents and the campus community while increasing their knowledge of Multicultural Sophistication, Intellectual Agility, and a Global View.”⁵⁹
- “Living on campus is a critical component of the CLASS (Clustered Learning, Advocacy, and Support for Students) experience. It provides students with the opportunity to live, learn, and experience Rensselaer and the local Troy area with members of their cohort.”⁶⁰
- “The physical transformation of the Troy campus over the past decade has been the most externally visible sign of institutional metamorphosis. We have invested over

⁵⁴ *Id.*

⁵⁵ Ex. A. at p. 10.

⁵⁶ *Id.*

⁵⁷ Ex. A at p. 20.

⁵⁸ *Id.* at p. 10.

⁵⁹ *Student Living and Learning*, Rensselaer Polytechnic Institute Website (last accessed September 3, 2020), <https://sll.rpi.edu/residential-commons/living-learning>.

⁶⁰ *Id.*

\$725 million to provide, enhance, enable, animate, and secure the platforms, facilities, and Institute physical infrastructure for the benefit of students, faculty, and staff.”⁶¹

307. Such statements, representations and omissions, which were uniform and identical in nature, were intended to induce Plaintiffs and other potential students to enroll at the University for their respective degree programs and pay tuition and certain mandatory fees.

308. The aforementioned statements, representations and omissions made by Defendant are objectively false, misleading and deceptive to Plaintiffs and the other members of the Classes, as well as the public at large.

309. Plaintiffs and other members of the Tuition, Fees, On-Campus Housing and Meals Classes agreed to paid the value of tuition and certain mandatory fees to Defendant with the reasonable expectation that students who enrolled at the University would receive an in-person and on-campus academic degree program and related services, including an in-person and hands-on curriculum; on-campus activities, services and access to facilities; on-campus housing; and meals with on-campus dining facilities, for the Spring 2020 and The Arch 2020 semesters.

310. However, Plaintiffs and other members of the Classes did not receive the value of the academic services, programs and/or benefits for which tuition and fees were charged.

311. As a result, Plaintiffs and other members of the Classes were proximately caused to pay excessive and inflated tuition and fees.

312. The acts and omissions of Defendant described above constitute deceptive business acts or practices and/or false advertising.

313. As a result of Defendant’s foregoing violations of New York General Business Law §§ 349, 350 et seq., Defendants have directly and proximately caused damage to Plaintiffs and

⁶¹ *CLASS (Clustered Learning, Advocacy, and Support for Students)*, Rensselaer Polytechnic Website (last accessed September 3, 2020), <https://info.rpi.edu/class/class-organization/#ResidentialClustering>.

other members of the Tuition, Fees, On-Campus Housing and Meals Classes and are entitled to recover actual damages in an amount to be determined at trial, and an award of reasonable attorneys' fees, expenses, costs and disbursements.

FOR AN ELEVENTH CAUSE OF ACTION FOR ESTOPPEL

(Plaintiffs and All Classes)

314. Plaintiffs incorporate by reference all preceding allegations as though fully set forth herein.

315. At all times relevant, Defendant made a clear and unambiguous promise to provide students, including Plaintiffs and the Classes, with an in-person and on-campus academic degree program and related facilities and services.

316. The promises made by Defendant are incorporated into the University's uniform marketing and recruitment materials, including its website, academic catalogs, student handbooks, circulars, bulletins, publications and other representations as heretofore alleged.

317. *The Rensselaer Plan 2024* characterizes these commitments by Defendant as "We Will Statements,"⁶² which are incorporated by reference herein.

318. Among the most prominent of the We Will Statements is Defendant's commitment to "[o]ffer a complete student experience, highlighted by: Clustered Learning, Advocacy, and Support for Student (CLASS)."⁶³

319. It was reasonable and foreseeable that students would rely on Defendant's promise to provide students with in-person academic instruction and related on-campus facilities and services.

⁶² Ex. A at p. 5.

⁶³ Id. at 10.

320. Plaintiffs reasonably relied on Defendant's promise to their detriment, in among other things, being deprived of an in-person and on-campus academic degree program and related facilities and services.

321. Defendant should be equitably estopped from retaining the full amount of the tuition and fees paid to Defendant by Plaintiffs and the Classes.

322. Accordingly, Plaintiffs and the Tuition, Fees, On-Campus Housing and Meals Classes are legally and equitably entitled to damages, to be decided by the trier of fact.

PRAYER FOR RELIEF

WHEREFORE, Plaintiffs, individually and on behalf of other members of the Classes, prays for judgment in their favor and against Defendant as follows:

- A. Certifying the Classes as proposed herein, designating Plaintiffs as Class representatives, and appointing undersigned counsel as Class Counsel;
- B. Declaring that Defendant is financially responsible for notifying the Class members of the pendency of this action;
- C. Declaring that Defendant has wrongfully kept monies paid for tuition, fees, on-campus housing, and meals;
- D. Requiring that Defendant disgorge amounts wrongfully obtained for tuition, fees, on-campus housing, and meals;
- E. Awarding injunctive relief as permitted by law or equity, including enjoining Defendant from retaining the pro-rated, unused monies paid for tuition, fees, on-campus housing, and meals;
- F. Scheduling a trial by jury in this action;

- G. Awarding Plaintiffs' reasonable attorneys' fees, costs and expenses, as permitted by law;
- H. Awarding pre and post-judgment interest on any amounts awarded, as permitted by law; and
- I. Awarding such other and further relief as may be just and proper.

DEMAND FOR JURY TRIAL

Pursuant to Rule 38 of the Federal Rules of Civil Procedure, Plaintiffs demand trial by jury in this action of all issues so triable.

Dated: September ___, 2020

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