

**STATE OF MICHIGAN
COURT OF CLAIMS**

PEYTON PAYMON, and all others
who are similarly situated,

Plaintiff,

v.

WAYNE STATE UNIVERSITY and
BOARD OF GOVERNORS OF
WAYNE STATE UNIVERSITY,

Defendant.

CASE NO. 20-_____ -MK

HON. _____

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THERE IS NO PENDING OR RESOLVED CIVIL ACTION ARISING OUT OF THE TRANSACTION OR OCCURRENCE ALLEGED IN THIS COMPLAINT.

VERIFIED CLASS ACTION COMPLAINT

Plaintiff Peyton Paymon ("Plaintiff"), by and through her counsel, brings this action against the Defendants WAYNE STATE UNIVERSITY and the BOARD OF GOVERNORS OF WAYNE STATE UNIVERSITY ("Defendants" or the "University") on behalf of herself and those similarly situated, and makes the following allegations based on information, attorney investigation, and belief, except as to the allegations pertaining to the Plaintiff personally, which are founded on her respective knowledge.

INTRODUCTION

1. Plaintiff brings this case against Defendants to demand remediation of the Defendants' refusal to provide adequate restitution for tuition, room and board, fees, and other applicable costs after the Plaintiff and similarly situated students were sent home from Wayne State University ("Wayne State") due to the Novel Coronavirus Disease of 2019 ("COVID-19") pandemic. As a result of this refusal, the Plaintiff and similarly situated students lost the benefits of in-person instruction, housing, meals, and student activities for which they had already paid or been charged by the University for an entire semester. Plaintiff and similarly situated students seek refunds of the amounts they paid on a pro-rata basis or an equivalent reduction in charges as well as other damages to be elaborated on herein.

BACKGROUND

2. On or around March 11, 2020, the University announced that because of the COVID-19 pandemic, all classes would be moved online for the remainder of the Winter 2020 semester. Defendants instructed students who lived in University residence halls and other on-

campus housing to move out if they could, although residence halls would remain open for students who had no choice but to remain on campus. On information and belief, most students in on-campus housing have complied with the directive to leave campus. In addition, the services that Plaintiff and the proposed Classes' (*See Class Definitions*, at para. 47) tuition and fees were intended to cover were no longer available to them.

3. Despite the cancellation of live in-person instruction, the constructive eviction of students at the University for the remainder of the semester, and the cessation of all campus activities for at least the same time period, the University has not offered adequate refunds or reductions in charges of tuition, room and board, and fees charged to cover the cost of certain on-campus services which will no longer be available to students. With respect to room and board, the University has merely offered an \$850 credit for students who follow its directive to move out of residence halls. This \$850 credit is not commensurate with the financial losses to the University's students and their families.

4. A sizable portion of the semester (which spans from January 6, 2020 through April 28, 2020) remained when the University encouraged students to move out of on campus housing in March; and when Michigan Gov. Gretchen Whitmer issued Executive Order No. 2020-21, a "temporary requirement to suspend activities that are not necessary to sustain or protect life."¹

5. The University's decision to transition to online classes and to request or encourage students to leave campus were responsible decisions to make, but it is unfair and unlawful for the University to retain full tuition and fees and a disproportionate share of prepaid amounts for room and board costs and fees and to refuse to reduce any outstanding charges, effectively passing the losses on to the students and their families. Other higher education institutions across the United

¹ https://www.michigan.gov/whitmer/0,9309,7-387-90499_90705-522626--,00.html.

States that also have switched to online learning and requested their students leave campus have recognized the upheaval and financial harm to students and their families from these decisions and have provided appropriate refunds and reductions in charges. The University, unfortunately, has not followed the pattern of many of its peers.

6. Accordingly, the University has improperly retained monies paid by and failed to reduce charges assessed against Plaintiff and the other members of the Classes for tuition, room and board, and fees, while prohibiting or otherwise preventing Plaintiff and other members of the Classes from obtaining the benefits for which they paid or have been charged. Even if the University did not have a choice of whether to send its students home, it nevertheless improperly retained funds for services it is not providing and continues to seek recovery of improper charges. No matter the reason for its decisions, the University's actions are unlawful and unfair, and equity demands disgorgement of the fees and monies paid and a commensurate reduction in any outstanding charges.

7. Plaintiff brings this class action for damages, injunctive, declaratory, and equitable relief, and any other available remedies, resulting from the University's illegal and unfair conduct, namely retaining full tuition, retaining an unfair share of the costs of room and board paid by Plaintiff and the other members of the Classes, retaining the full amount paid for fees, and refusing to adjust outstanding charges, while directing Plaintiff and other members of the Classes (or the students on behalf of whom Plaintiff and Class members paid these expenses) to move off campus.

8. This lawsuit also seeks disgorgement of partial tuition for the Winter 2020 semester, the prorated unused portion of room and board, and unused fees that Plaintiff and other members of the Classes paid, but for which they (or the students on behalf of whom they paid) will not be provided the benefit, along with a commensurate reduction in any outstanding charges.

PARTIES

A. Plaintiff

9. Plaintiff Peyton Paymon is a resident of the state of Michigan. She is a student at Wayne State University. Plaintiff is a psychology major.

10. Plaintiff enrolled in the University for the Winter 2020 semester and lived in on-campus housing at the beginning of the semester, in January 2020. After some credit for scholarship grants and loans, Plaintiff and her family have been billed for the remaining cost of tuition, room and board and fees for the entire Winter 2020 semester. Plaintiff has partially financed her education through student loans, including financing the cost of tuition, room and board, and fees for the Winter 2020 semester – thus, for every loaned dollar she pays, she will have to pay interest.

11. Plaintiff's education has transitioned from in-person to online learning as part of the University's removal of students and non-essential personnel from the University's campuses. Plaintiff's online classes are not commensurate with the same courses being taught in-person. Plaintiff has not been provided with an adequate refund of partial tuition.

12. Plaintiff moved out of on-campus housing at the behest of the University during the COVID-19 outbreak. Indeed, the sudden change of living arrangements for the Plaintiff was in keeping with the University's recommendation, stating that any student who can move home or to a different location should do so. Plaintiff has not resided in on-campus housing since she left campus in March of 2020. Plaintiff has not received an adequate prorated refund or reduction in charges of the payments for room and board.

13. Plaintiff has been charged for a meal plan for the Winter 2020 semester, the benefits of which will no longer be received. Plaintiff has not been provided an adequate refund or reduction in charges.

14. Plaintiff also has been charged for certain fees for the entire Winter 2020 semester, the benefits of which will no longer be received. Plaintiff has not been offered an adequate prorated refund of her payments or reduction in charges for fees.

B. Defendants

15. Defendant, Wayne State University, is a public research university located in Detroit, Michigan.

16. Defendant, the Board of Governors of Wayne State University, is a body corporate authorized to sue and be sued on behalf of Wayne State University with respect to its responsibilities governing the University.

JURISDICTION AND VENUE

17. This Court has jurisdiction over this action pursuant to MCL 600.6419(1)(a), because the University is a department of the State.

18. This Court has jurisdiction pursuant to MCR 2.605 because Plaintiffs and the proposed members of the Classes seek a declaratory judgment, there is an actual controversy between the parties, and the Court would have jurisdiction if relief other than a declaratory judgment were sought.

19. This Court has jurisdiction over this action and venue is proper because at least some of the events giving rise to these causes of action occurred in Wayne County, Michigan and at least some of the injuries suffered by Plaintiff and the proposed members of the Classes occurred and will continue to occur in Wayne County, Michigan.

FACTUAL ALLEGATIONS

A. Plaintiff and Other Members of the Classes Have Been Charged the Full Cost of Tuition, Room and Board, and/or Fees for the Semester of Winter 2020

20. Plaintiff and members of the Classes are individuals who were charged the cost of tuition, room and board, and/or fees for the University's semester in Winter of 2020.

21. Winter semester classes at the University began on January 6, 2020. Final exams for the semester are scheduled to end on or around April 28, 2020. Prior to the COVID-19 outbreak, students were scheduled to move out of their residences on or around the first week of May 2020; however, because of the COVID-19 outbreak, the students were required to move out in the middle of March.

22. For freshmen, tuition at the University for the 2019-2020 academic year starts at \$397.05 for an in-state resident per credit hour (\$13,922 per year on average) and starts at \$909.40 for an out-of-state resident per credit hour (\$29,754 per year on average). Approximate room and board costs at the University for the year start at \$10,694 for shared occupancy of a double room with the lowest price meal plan.²

23. Tuition and fees listed and described in the above paragraphs are provided by way of example; total damage amounts – which may include other fees not listed herein – will be proven at trial. There are also fees which are not included in the cost of tuition, which are separately discussed above and throughout this Complaint.

² <https://wayne.edu/financial-aid/resources/cost-of-attendance/>.

B. In Response to COVID-19, the University Gets It Half Right: Students Are Required or Encouraged to Leave Campus, But the University Does Not Provide Them With An Adequate Refund for or Reduction in Charges of Partial Tuition, Room and Board, and Fees

24. Beginning in January of 2020, COVID-19 began presenting American cities and universities with an unprecedented, modern-day challenge: maintaining the fabric of our economy and communities while protecting American lives.

25. In March 2020, several U.S. cities, states, and municipalities began calling for social distancing to slow the spread of COVID-19. Eventually, some cities, states, and municipalities ordered citizens and residents to “shelter-at-home,” effectively requiring them to stay home, other than to receive essential services.

26. In March 2020, all students who could leave campus residence halls at the University were directed to do so and students were advised that all Winter 2020 classes would be moved to online learning platforms. Students were advised that most University buildings would soon be locked during the day and all student activities (including campus athletics) would be canceled. Campus food options would be continued on a limited basis.

27. The University has retained the value of payments made by and not reduced charges to Plaintiff and the other members of the Classes for tuition for live in-person instruction, room and board, and fees, while failing to provide the services for which those fees were paid.

28. Various members of the Classes have demanded a reduction in charges and the return of the unused amounts of funds paid for tuition, for room and board, and fees, through a number of channels. The University has made clear its policy that it will not reduce charges or return any tuition or fees, and will only provide a minimal credit (not a full return of the prorated, unused amounts) for room and board.

29. Through this lawsuit, Plaintiff seeks for herself and the other members of the Classes: a reduction in charges and a partial refund of tuition representing the difference in value of a half semester of live in-person instruction versus a half semester of online distance learning; a reduction in charges and the return of the unused portion of room and board costs proportionate to the amount of time that remained in the Winter 2020 semester when students were directed to move out of their on-campus housing; and, a reduction in charges and the full refund of the unused portion of each meal contract and a refund of a prorated share of fees.

1. The University Failed to Reduce Charges and Refund Partial Tuition: The Difference in Value of Online Education vs. Live In-Person Instruction in Brick and Mortar Classrooms

30. University students were not offered a reduction in charges or a partial refund of tuition representing the value of the quarter of the academic year that they were forced to use online distance learning platforms in lieu of live in-person instruction in brick and mortar classrooms.

31. As noted in a July 9, 2017 study by Eric Betting and Susanna Loeb of the Brookings Institute (the “Brookings Study”)³, the promises of online courses are “far from fully realized”:

- While online courses can improve access, they are challenging, especially for the “least well-prepared students” who “consistently perform worse in an online setting than they do in face-to-face classrooms.”
- Taking courses online “increases their likelihood of dropping out and otherwise impedes progress through college.”

32. Of note, the Brookings Study uses data from DeVry University, comparing both DeVry’s online and in-person courses. The results are telling and provide evidence that students learn less in the online setting:

³ <https://www.brookings.edu/research/promises-and-pitfalls-of-online-education/>.

- Taking courses online reduces student grades by 0.44 points on the traditional four-point grading scale, a 0.33 standard deviation decline relative to taking courses in-person.
- Specifically, students taking the course in-person earned roughly a B- (2.8) grade on average while if they had taken it online, they would have earned a C (2.4).
- Taking a course online reduces a student's GPA the following term by 0.15 points, with larger drops of 0.42 points and 0.32 points respectively in the next term's grades for courses taken in the same subject area or for courses in which the online course is a prerequisite.
- The study also found that taking a course online, instead of in-person, increases the probability that the student will drop out of school, citing that students are approximately 9% less likely to remain enrolled in the semester after taking an online course.

33. The Brookings Study concludes that the “analyses provide evidence that students in online courses perform substantially worse than students in traditional in-person courses and that experiences in these online courses impact performance in future classes and their likelihood of dropping out of college as well. The negative effects of online course-taking are far stronger for students with lower prior GPA.”

34. In addition to the value of live in-person instruction, students are more successful academically and otherwise when living in university residence halls.⁴ “The truth of the matter is that campus housing provides a great deal of return to the students who chose to live in the residence halls. This has been demonstrated through multiple studies over multiple years.”⁵

35. Several studies demonstrated that living in a residence hall had a positive impact on degree attainment and that on-campus students were more likely to stay in school and graduate than commuter students.⁶ “The data are very clear – the impact of higher education increases

⁴ <https://theconversation.com/why-there-is-value-in-on-campus-living-45691>

⁵ Id.

⁶ Id.

dramatically when students are enrolled in a college that engages them in a robust campus life program, especially in a college where they live on campus and are constantly interacting with a range of people and ideas.”⁷

36. While Plaintiff acknowledges the necessity of the University’s efforts to continue delivering in a format other than in-person, the value (and cost) of online classes is less than in-classroom instruction.

37. Plaintiff and members of the Classes who were charged tuition for live in-person instruction in brick and mortar classrooms that were forced to use online distance learning platforms for the remainder of the Winter 2020 semester did not get the full benefit of what they bargained for when they agreed to pay tuition for the Winter 2020 semester.

2. The University Failed to Reduce Charges or Refund Prorated Room and Board

38. While social distancing is recommended by healthcare professionals and the Center for Disease Control and Prevention (“CDC”), the resulting financial impact to students – and individual families’ wallets – is significant.

39. University students were informed that they would receive a \$850 credit to their student account so long as they moved out of residence halls by a set date.

40. In letters dated March 21, 2020, the University stated the following:

MARCH 21, 2020: “We continue to recommend that all students return to their permanent residence off-campus if that is possible... All campus residents who follow the procedures outlined below by 5 p.m. on Thursday, April 9, 2020 will receive a credit to your student account of \$850

...

You will see this credit unless otherwise indicated: [1] if you owe a balance on your student account, this will reduce the amount still due; [2] any credit balance that remains on your student account this semester will be returned to

⁷ https://www.huffpost.com/entry/the-value-of-campus-life_b_57f3e995e4b03d61445c7443

you through the Bursar's normal refund process; [3] if you have already registered for spring/summer classes, this credit will not be applied against those charges when determining any account refund you may be due... [5] if you are a resident who has received specific institution support for housing and dining charges... you are not eligible for this credit.”⁸

41. The delayed refund is insufficient because it does not fully reduce charges or refund the full prorated, unused portion of room and board payments for the portion of the semester students were no longer on campus.

42. Furthermore, even though the University claims that remaining in on-campus housing is an option: residence halls and other campus housing are not designed to safely house students in the event of a pandemic and, in order to stay safe, unless there are absolutely no other options, students must move out in order to practice safe, social distancing in accordance with recommendations by the CDC.

43. In addition to the price of tuition, housing, costs and fees, Plaintiff and members of the Classes were charged for on-campus meals. After the school was effectively closed and students were directed to leave, students – including the Plaintiff and members of the Classes – lost access to the food being served on campus. The University has failed to adequately reduce charges or reimburse students with a refund of the amounts paid (on a prorated basis) for meals.

3. Student Fees

44. Aside from the woefully insufficient “relief” provided to Plaintiff and members of the Classes for their on-campus housing costs, the University failed to offer students a reduction

⁸ https://i.wayne.edu/view/5e76a84463b77?utm_source=link&utm_medium=email-5e76a84463b77&utm_campaign=COVID-19+Early+move-out+and+room%2Fboard+credit+information&utm_content=Read+this+email+on+the+Web.

in charges or a refund of any of the fees they were charged for the semester that were unused or for which they had not received a benefit.

45. This is so even though most University buildings were closed and all student activities were canceled for the remainder of the Winter 2020 semester.

CLASS ACTION ALLEGATIONS

46. Plaintiff brings this action as a class action, pursuant to Michigan Court Rule 3.501, individually on behalf of the proposed classes (“Classes”) enumerated in paragraph 47, under Class Definitions.

47. **Class Definitions.** Plaintiff brings this case for damages, equitable relief and disgorgement, on behalf of three Classes, defined as:

Tuition Class: All people who were charged for or paid tuition for students enrolled in classes at the University for the Winter 2020 semester who were denied live in-person instruction and forced to use online distance learning platforms for the last quarter of the 2019-2020 academic year (the “Tuition Class”).

Room and Board Class: All people who were charged for or paid the costs of room and board (housing and meals) for students enrolled in classes at the University for the Winter 2020 semester who moved out of their on-campus housing prior to the completion of that semester because of the University’s policies and announcements related to COVID-19 (the “Room and Board Class”).

Fee Class: All people who were charged for or paid fees for or on behalf of students enrolled in classes at the University for the Winter 2020 semester (the “Fee Class”).

48. Excluded from the Classes are: the Wayne State University Board of Governors, and any of its respective members and their family members; the judicial officers assigned to this matter, and their immediate family members; Court staff assigned to this case. Plaintiff reserves the right to modify or amend the Class Definitions, as appropriate, during the course of this litigation.

49. This action has been brought and may properly be maintained on behalf of the Classes proposed herein under the criteria of Michigan Court Rule 3.501.

50. **Numerosity – Michigan Court Rule 3.501(A)(1)(a).** The number of members of each of the Classes is so numerous that individual joinder of all members of the Classes is impracticable. The precise number of members of the Classes is unknown to Plaintiff, but may be ascertained from the University'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.

51. **Commonality – Michigan Court Rule 3.501(A)(1)(b).** This action involves questions of law and fact common to the Classes, which predominate over any individual questions, including:

- a. Whether Defendants engaged in the conduct alleged herein;
- b. Whether there is a difference in value between online distance learning and live in-person instruction;
- c. Whether the University breached its contracts with Plaintiff and the other Tuition Class members by retaining the portion of their tuition representing the difference between the value of one half a semester of online distance learning and one half a semester of live in-person instruction in brick and mortar classrooms and by refusing to reduce outstanding charges;
- d. Whether the University was unjustly enriched by retaining tuition payments and refusing to reduce outstanding charges of Plaintiff and the Tuition Class representing the difference in value of one half a semester of online distance

learning and one half a semester of live in-person instruction in brick and mortar classrooms;

- e. Whether the University breached its contracts with Plaintiff and the other members of the Room and Board Class who entered into housing agreements by not reducing charges or refunding them the full prorated amount of their housing expenses when a pandemic prevented them (or the students on whose behalf they paid) from continuing to live on campus safely and whether the University breached its contracts with Plaintiff and the other Class members by not reducing charges and by retaining costs for food and on-campus dining without providing those services which the costs were intended to cover;
- f. Whether the University was unjustly enriched by not reducing charges and by retaining payments of Plaintiff and the other Room and Board Class members while they (or the students on whose behalf they paid) moved out of their on-campus housing;
- g. Whether the University breached its contracts with Plaintiff and the other Fee Class members by not reducing charges and by retaining fees without providing the services which the fees were intended to cover;
- h. Whether the University was unjustly enriched by not reducing charges and by retaining fees of Plaintiff and the other Fee Class members without providing the services which the fees were intended to cover;
- i. Whether certification of any or all the Room and Board Class, Fee Class and/or Tuition Class is appropriate under Michigan Court Rule 3.501;

- j. Whether Class members are entitled to declaratory, equitable, or injunctive relief, and/or other relief; and
- k. The amount and nature of relief to be awarded to Plaintiff and the other Class members.

52. **Typicality – Michigan Court Rule 3.501(A)(1)(c).** Plaintiff's claims are typical of the claims of the other members of the Classes because Plaintiff and the other members each paid for tuition, room and board, fees and certain other costs associated with the Winter 2020 semester at the University but were not provided the services that those fees and costs were meant to cover. Plaintiff and the other members of the Classes suffered damages – namely, the loss of their payments – as a direct and proximate result of the same wrongful conduct in which the University engaged. Plaintiff's claims arise from the same practices and course of conduct that give rise to the claims of the other members of the Classes.

53. **Adequacy of Representation – Michigan Court Rule 3.501(A)(1)(d).** Plaintiff is an adequate Class representative because her interests do not conflict with the interests of the other members of the Classes who she seeks to represent, Plaintiff has retained counsel competent and experienced in complex class action litigation, and Plaintiff intends to prosecute this action vigorously. The interests of the members of the Classes will be fairly and adequately protected by Plaintiff and her counsel.

54. **Superiority of Adjudication as a Class Action – Michigan Court Rules 3.501(A)(1)(e) and 3.501(A)(2).** Because of the aforementioned, and in an effort to preserve judicial economy, this case will be best maintained as a Class Action, which is superior to other methods of individual adjudication of claims.

55. **Declaratory and Injunctive Relief – Michigan Court Rule 3.501(A)(2)(b).** The University has acted or refused to act on grounds generally applicable to Plaintiff and the other members of the Classes, thereby making appropriate final injunctive relief and declaratory relief, as described below, with respect to the members as a whole.

CLAIMS ALLEGED

FIRST CLAIM FOR RELIEF

Breach of Contract
(Plaintiff and Other Members of the Tuition Class)

56. Plaintiff repeats and re-alleges the allegations in the Paragraphs above, as if fully alleged herein.

57. Plaintiff brings this claim individually and on behalf of other members of the Tuition Class.

58. Plaintiff and the Tuition Class entered into contracts with the University (the contracts are in the University's possession) which provided that Plaintiff and other members of the Tuition Class would pay tuition, and in exchange, the University would provide live in-person instruction in a brick and mortar classroom.

59. Plaintiff and other members of the Tuition Class fulfilled their end of the bargain when they accepted charges and paid tuition for the Winter 2020 semester either out-of-pocket or by using student loan financing.

60. The University breached the contract with Plaintiff and the Tuition Class by moving the second half of all classes for the Winter 2020 semester to online distance learning platforms.

61. The University refused to reduce charges and retained tuition monies paid by Plaintiff and other members of the Tuition Class, without providing them with the benefit of their bargain.

62. Plaintiff and other members of the Tuition Class have been damaged in that they have been deprived of the value of the services the tuition was intended to cover – live in-person instruction in brick and mortar classrooms – while the University retained those fees and refused to reduce charges.

63. Plaintiff and other members of the Tuition Class are entitled to a refund and a commensurate reduction in charges.

64. Plaintiff and other members of the Tuition Class are entitled to an equitable remedy – here: disgorgement of the difference between the value of one half a semester of online learning versus the value of one half a semester of live in-person instruction in brick and mortar classrooms.

SECOND CLAIM FOR RELIEF

Breach of Contract **(Plaintiff and Other Members of the Room and Board Class)**

65. Plaintiff repeats and re-alleges the allegations in the Paragraphs above, as if fully alleged herein.

66. Plaintiff brings this claim individually and on behalf of the other members of the Room and Board Class.

67. Plaintiff and other members of the Room and Board Class entered into contracts in the form of agreements with the University (the contracts are in the University's possession), that provided that Plaintiff and other members of the Room and Board Class would pay monies and, in exchange, the University would provide housing in its residence halls and other campus affiliated-housing.

68. Plaintiff and other members of the Room and Board Class fulfilled their end of the bargain when they accepted charges or paid monies due and owing for their residence hall or other housing for the semester. Plaintiff and other members of the Room and Board Class were not

provided housing for the entire semester; accordingly, Plaintiff and other members of the Room and Board Class are entitled to a reduction in outstanding charges or a refund.

69. Plaintiff and the other members of the Room and Board Class are entitled to an equitable remedy in the event of a breach – here: disgorgement of the unused days of housing costs already charged.

70. The University has refused to reduce charges and retained monies paid by Plaintiff and other members of the Room and Board Class for their Winter 2020 residence hall housing, without providing the benefit of their bargain.

71. Plaintiff and other members of the Room and Board Class have been damaged in that they have been deprived of the value they paid for residence hall housing while the University retained that value.

THIRD CLAIM FOR RELIEF

Breach of Contract **(Plaintiff and Other Members of the Fee Class)**

72. Plaintiff repeats and re-alleges the allegations in the Paragraphs above, as if fully alleged herein.

73. Plaintiff brings this claim individually and on behalf of the other members of the Fee Class.

74. Plaintiff and the Fee Class entered into contracts with the University (the contracts are in the University's possession), which provided that Plaintiff and other members of the Fee Class would pay various fees, and in exchange, the University would provide services to students.

75. The University has refused to reduce charges and has retained monies paid by Plaintiff and the other members of the Fee Class, without providing them the benefit of their bargain.

76. Plaintiff and the other members of the Fee Class have been damaged in that they have been deprived of the value of the services the fees they paid were intended to cover, while the University refused to reduce charges and retained those fees.

77. Plaintiff and other members of the Fee Class are entitled to an equitable remedy – here: disgorgement of the prorated, unused amounts of fees already charged and collected.

FOURTH CLAIM FOR RELIEF

Unjust Enrichment **(Plaintiff and Other Members of the Tuition Class)**

78. Plaintiff repeats and re-alleges the allegations in the Paragraphs above, as if fully alleged herein.

79. Plaintiff brings this claim individually and on behalf of the other members of the Tuition Class and in the alternative to the breach of contract claim brought on behalf of Plaintiff and the other members of the Tuition Class.

80. The University has received a benefit at the expense of Plaintiff and other members of the Tuition Class to which it is not entitled. Plaintiff and other members of the Tuition Class accepted charges and paid substantial tuition for live in-person instruction in brick and mortar classrooms and did not receive the full benefit of their bargain. Accordingly, the University should reduce charges and return the monies paid for tuition for the Winter 2020 semester by Plaintiff and other members of the Tuition Class. Equity demands the return of value of the difference between one half of one semester of instruction on online distance learning platforms versus one half of one semester of live in-person instruction in brick and mortar classrooms.

81. The University has been unjustly enriched by refusing to reduce charges and by retaining the monies paid by Plaintiff and other members of the Tuition Class for live in-person instruction in brick and mortar classrooms without providing the services for which those monies

were to be paid. Equity requires that the University reduce charges and return a portion of the monies paid in tuition to Plaintiff and other members of the Tuition Class.

FIFTH CLAIM FOR RELIEF

Unjust Enrichment

(Plaintiff and Other Members of the Room and Board Class)

82. Plaintiff repeats and re-alleges the allegations in the Paragraphs above, as if fully alleged herein.

83. Plaintiff brings this claim individually and on behalf of the other members of the Room and Board Class and in the alternative to the breach of contract claim brought on behalf of Plaintiff and the other members of the Room and Board Class.

84. The University has received a benefit to which it is not entitled at the expense of Plaintiff and other members of the Room and Board Class. Plaintiff and other members of the Room and Board Class accepted charges and paid for housing and did not receive the full benefit of their bargain. Accordingly, the University should reduce charges and return the unused monies paid for on-campus housing for the Winter 2020 semester by Plaintiff and other members of the Room and Board Class. Equity demands a reduction in charges and the return of the prorated, unused amounts paid by Plaintiff and other members of the Room and Board Class.

85. The University has been unjustly enriched by refusing to reduce charges and by retaining the monies paid by Plaintiff and other members of the Room and Board Class for residence hall housing for the semester while not providing the housing for which those monies were to be paid. Equity requires the University to reduce charges and to return the full prorated unused amounts charged to Plaintiff and other members of the Room and Board Class for their housing expenses.

SIXTH CLAIM FOR RELIEF

Unjust Enrichment **(Plaintiff and Other Members of the Fee Class)**

86. Plaintiff repeats and re-alleges the allegations in the Paragraphs above, as if fully set forth herein.

87. Plaintiff brings this claim individually and on behalf of the other members of the Fee Class, respectively, and in alternative to the breach of contract claim brought on behalf of Plaintiff and the other members of the Fee Class.

88. The University has received a benefit to which it is not entitled at the expense of Plaintiff and other members of the Fee Class. Plaintiff and other members of the Fee Class were charged for and paid University fees and did not receive the full benefit of their bargain when the school shut down most facilities. Accordingly, the University should reduce charges and return the monies paid for fees for the Winter 2020 semester by Plaintiff and other members of the Fee Class. Equity demands the reduction in charges and the return of these amounts paid by Plaintiff and other members of the Fee Class.

89. Plaintiff and the other members of the Fee Class were charged for and paid fees for or on behalf of students, which were intended to cover the cost of services for the Winter 2020 semester. In exchange, students were entitled to receive Fee-related services for the entire semester.

90. With respect to fees, the University stopped providing the services these fees were intended to cover.

91. The University has refused to reduce charges and has retained fees paid by Plaintiff and other members of the Fee Class, without providing the services for which they were paid and, as such, has been enriched.

92. The University has been unjustly enriched by refusing to reduce charges and by retaining the fees paid by Plaintiff and the other members of the Fee Class for the semester while not providing the services for which those fees were intended. Equity requires that the University reduce charges and return the fees paid by Plaintiff and the other members of the Fee Class.

REQUEST FOR RELIEF

93. Plaintiff, individually and on behalf of the other members of the Classes, respectfully requests that the Court enter judgment in their favor and against Defendants as follows:

- A. Certifying the Classes as requested herein, designating Plaintiff as class representative, and appointing the undersigned counsel as Class Counsel;
- B. Declaring that the University is financially responsible for notifying the members of the Classes of the pendency of this suit;
- C. Declaring that the University has wrongfully refused to reduce charges and has wrongfully kept monies paid for tuition, room and board, and fees;
- D. Requiring that the University reduce charges and disgorge amounts wrongfully obtained for on-campus tuition, room and board, and fees.
- E. Awarding injunctive relief as permitted by law or equity, including enjoining the University from refusing to reduce charges and from retaining the prorated, unused monies paid for tuition, room and board, and fees;
- F. Awarding Plaintiff's reasonable attorney's fees, costs and expenses;
- G. Awarding pre- and post-judgment interest on any amounts awarded; and
- H. Awarding such other and further relief as may be just and proper.

DATED: April 20, 2020

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VERIFICATION

I declare under the penalties of perjury that this Complaint has been examined by me and that its contents are true to the best of my information, knowledge and belief.

/s/ Peyton Paymon