

UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA

Before The Honorable William H. Alsup, Judge

THERESA SWEET, et al.,)	
)	
Plaintiffs,)	
)	
VS.)	NO. C 19-03674 WHA
)	
ELISABETH DEVOS, in her)	
official capacity as Secretary)	
of the United States Department)	
of Education and the UNITED)	
STATES DEPARTMENT OF EDUCATION,)	
)	
Defendants.)	
_____)	

San Francisco, California
Thursday, October 1, 2020

TRANSCRIPT OF ZOOM WEBINAR PROCEEDINGS

APPEARANCES: (via Zoom)

For Plaintiffs:

LEGAL SERVICES CENTER OF
HARVARD LAW SCHOOL
122 Boylston Street
Boston, MA 02310
BY: MARGARET E. O'GRADY, ATTORNEY AT LAW

For Defendants:

UNITED STATES DEPARTMENT OF JUSTICE
Civil Division, Federal Programs Branch
919 East Main Street - Suite 1900
Richmond, Virginia 23219
BY: R. CHARLIE MERRITT, ATTORNEY AT LAW

Reported By: Marla F. Knox, RPR, CRR, RMR
United States Official Court Reporter

1 APPEARANCES: (CONT'D)

2 SPEAKERS:

3 Rachel Greenbaum

4 Laura Dadich

5 Treiva Johnson

6 Jana Bergevin

7 Danielle Adorno

8 Rebekah Sanchez Norton

9 Victoria Linssen

10 Maureen Simmons

11 Tarah Gramza

12 Evelyn Segovia

13 Cassandra Nordman

14 Hugh McGinley

15 Ashley Hardin

16 Kishan Redding

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1 Thursday - October 1, 2020

8:00 a.m.

2 P R O C E E D I N G S

3 ---000---

4 **THE CLERK:** This court is now in session. The
5 Honorable William Alsup presiding.

6 Calling civil matter 19-3674, Sweet, et al. versus DeVos,
7 et al.

8 Starting with Plaintiff, will Counsel please make your
9 appearances.

10 **MS. O'GRADY:** Good morning, Your Honor, this is
11 Margaret O'Grady, Counsel for Plaintiffs from the Project On
12 Predatory Student Lending.

13 **THE COURT:** Is anyone representing the Defendants?

14 **MR. MERRITT:** Yes. Good morning, Your Honor, this is
15 Charlie Merritt from the Department of Justice on behalf of the
16 Defendants.

17 **THE COURT:** Thank you. Welcome. Any other Counsel
18 wish to appear?

19 (No response.)

20 **THE COURT:** Okay. Thank you all for appearing. And I
21 want to welcome several hundred class members to this hearing.
22 Thank you for attending.

23 My name is William Alsup, A-L-S-U-P. I'm the Judge. And
24 this is a case -- this is a case brought on behalf of persons
25 who borrowed student loans and applied to the Department of

1 Education for relief from having to pay back those loans.

2 And there is quite -- I think there is 160,000 in this
3 class. And the problem is that the Agency has been slow in
4 ruling on the applications. And so this lawsuit was brought to
5 require the Agency to make a ruling, either yes or no.

6 Now, I want to be very clear. The lawsuit is not designed
7 to require a ruling in favor of class members or against them
8 but simply to get a ruling, one way or another.

9 So then if a class member were to lose, they would have to
10 then, if they wanted to, pursue it further, go to the District
11 Court when -- they would have a statutory venue and litigate on
12 their own.

13 It would not be up to me to decide whether any of 160,000
14 applications should or should not have been granted. But the
15 issue before us is the timing of the -- of just getting a
16 ruling, one way or the other.

17 So that's the background. Now, why are we here today?
18 Well, the parties we thought had reached a settlement that
19 would allow the Department of Education to begin saying --
20 giving rulings on their -- on the 160,000 applications.

21 And under the law, I have to give class members an
22 opportunity to be heard. So we set today's hearing to give you
23 that opportunity.

24 Now, the problem is, unlike most class actions where there
25 is either zero or one or two people who might want to be heard,

1 over 200 people wanted to be heard today. It is impossible to
2 do that.

3 So we went through all the comments and picked out,
4 I believe, 15 individuals that we would like to hear from and
5 we think those 15 comments are representative of the hundreds
6 and hundreds of comments that came in.

7 So you will just have to bear with us. If you were picked
8 to comment, great. If you weren't, well, just go with your
9 written comments. I'm sorry.

10 Anyway, that's why we are here today. I need to give you
11 a heads-up that the lawyers have a different problem, which is
12 they -- the settlement may fall apart for other reasons; but
13 that is not the purpose of today's hearing.

14 The purpose of today's hearing is to get your input on the
15 proposed settlement which has been previously summarized to
16 you.

17 I won't make a decision today. I want to take into
18 account what you say, but I don't want to make any decision
19 today. I want to hear from the class members.

20 Now, before we hear from any of the class members -- I
21 don't want any speeches -- but do any of the lawyers have
22 any -- anything that you wish to add or subtract from the
23 preliminary remarks that I made? First, Plaintiffs' Counsel.

24 **MS. O'GRADY:** Thank you, Your Honor. I would just say
25 that we are happy that the opportunity is being given to the

1 class members to speak today and look forward to hearing what
2 they have to say. Thank you.

3 **THE COURT:** Thank you for those comments. And by the
4 Government?

5 **MR. MERRITT:** Nothing more, Your Honor, other than we
6 are thanking everyone for choosing to submit comments and
7 appearing today. And we look forward to hearing from everyone
8 as well.

9 **THE COURT:** Thank you for that brief comment.

10 So at this time, I will ask the Clerk -- by the way, we
11 are in the courtroom. I don't know if you can tell, but we are
12 actually in the courtroom because it's the only one set up for
13 this kind of telephone plus Zoom proceeding. So I'm on the
14 bench wearing a robe just like it would be a regular hearing,
15 and my Clerk is here. And she will now call out the name of
16 the first person. And I think each person will get up to 90
17 seconds; is that correct?

18 **THE CLERK:** That's correct, Your Honor.

19 **THE COURT:** Okay. So you have been previously
20 notified that you were selected. And are there any other
21 ground rules, Angela?

22 **THE CLERK:** No. They have 90 seconds to speak; and I
23 have let them know when their 90 seconds are up, I would let
24 them know if they can wrap up promptly. Then I will mute them
25 and we will move on to the next person.

1 **THE COURT:** Very good. I'm going to be listening
2 carefully. So, please, Angela, go ahead.

3 **THE CLERK:** All right. Rachel Greenbaum, you are up
4 first.

5 **RACHEL GREENBAUM:** Thank you. Hi, Your Honor. My
6 name is Rachel Greenbaum, and I graduated from Brooks Institute
7 of Photography in 2006.

8 I told my own personal student loan horror story at a
9 California State hearing last year that was the first of its
10 kind.

11 My story is as bad as most and worse than some. Certainly
12 terrible enough to be picked as one of only five to speak on
13 that panel. The other stories brought me to tears. Telling my
14 own story broke me down too.

15 We have all collectively been waiting now for years to
16 find out if we get some relief in our lives that have been put
17 on hold.

18 Our futures that have been stolen; our hesitations to
19 marry or dare start families; our immediate family members that
20 have become estranged or just inconsolably angry due to
21 cosigning on monumentous predatory loans that have affected
22 their credit, their lives and relationships.

23 When I discovered there was a settlement to get our loan
24 dismissed, I felt hopeful for justice to finally be served.
25 And when I realized that all that came from it was mass

1 denials, I felt infuriated, deflated and hopeless, which has
2 certainly deepened throughout 2020.

3 My hope now is that the Honorable Judge Alsup will enforce
4 the settlement under the true spirit of the agreement; that our
5 applications should be given real and legitimate consideration.
6 And if then denied -- not just as a smothering blanket
7 denial -- we should be given all the reasons why so that we can
8 launch a factual appeal.

9 Thank you for your consideration and allowing me to speak
10 for all the struggling, hardworking students that were lied to
11 and robbed blind with our Secretary of Education stamp of
12 approval.

13 **THE COURT:** Thank you. What is your -- Rachel, but I
14 didn't get the last name.

15 **RACHEL GREENBAUM:** Greenbaum.

16 **THE COURT:** Where do you live?

17 **RACHEL GREENBAUM:** Currently, I'm in Los Angeles
18 California.

19 **THE COURT:** All right. Thank you for that.

20 **RACHEL GREENBAUM:** Thank you.

21 **THE COURT:** How much money did you borrow?

22 **RACHEL GREENBAUM:** I'm well over a hundred thousand
23 dollars in debt.

24 **THE COURT:** Okay. Thank you. All right. Next.

25 **THE CLERK:** Thank you, Ms. Greenbaum.

1 Laura Dadich.

2 **LAURA DADICH:** Good morning, Your Honor. I went to
3 Katharine Gibbs School for my Associate's in Healthcare
4 Management for long-term care in 2006. Upon admissions to
5 Gibbs, I was told my credits would transfer anywhere nationwide
6 to pursue my nursing degree.

7 Not long after, I relocated out of state for more
8 educational opportunities and found out from these schools that
9 I had applied to that, unbeknownst to me, my credits were not
10 accepted because they were from a regionally accredited school;
11 not a nationally accredited school.

12 I was then forced to re-take these classes and soon maxed
13 out of undergrad financial aid and was unable to complete my
14 degree, which I am just short by two semesters.

15 I applied for borrower's defense around September 2015,
16 and all of the sudden I get a denial letter just weeks before
17 today's hearing. The reasons were incredibly vague and gave no
18 reason for the denial other than -- and I quote -- "other."

19 Years spent at Katharine Gibbs obtaining a 3.8 GPA have
20 got me a worthless degree, mounds of debt and loss faith in the
21 education system. The financial strain has been extremely
22 challenging.

23 If my loans are discharged, I would be able to complete
24 all of these years my degree. The employment opportunities
25 that I have missed because of this have cost me both

1 financially and emotionally.

2 I feel that the Department of Education has duped us and
3 issued mass denials just a few weeks ago knowing this.

4 I feel that we are being swept under the rug, and I feel
5 that Ms. DeVos and the Department of Education have been trying
6 to end this Borrower Defense program since she took her
7 position.

8 I feel that it is only fair that those of us who are
9 manipulated, tricked and lied to by these deceitful diploma
10 mills be given the chance to have our loans forgiven or
11 discharged so we can finally have the opportunity to finish our
12 education the legal and fair way and move forward with our
13 lives. Thank you, Your Honor.

14 **THE COURT:** Thank you. How much money did you borrow?

15 **LAURA DADICH:** Oh, federally about \$75,000.

16 **THE COURT:** And where do you live now?

17 **LAURA DADICH:** Currently I'm in St. Paul, Minnesota.
18 Originally from Long Island, New York.

19 **THE COURT:** Your last name again?

20 **LAURA DADICH:** D-A-D-I-C-H, Dadich.

21 **THE COURT:** Okay. All right. Thank you very much for
22 those comments. Next.

23 **THE CLERK:** Thank you, Ms. Dadich. Next is Treiva
24 Johnson.

25 **THE COURT:** Say the name more loudly.

1 **THE CLERK:** Treiva Johnson.

2 **THE COURT:** Okay.

3 **TREIVA JOHNSON:** Hello. Hi. Good morning, everyone.

4 Thank you for this opportunity to speak today. I have
5 received a denial pertaining to the loan reimbursement or the
6 forgiveness of the loan. The reason that I am here today is
7 because I would like to speak for those who are still awaiting.

8 The promotion of higher education and it leading to a
9 better way of life or a way out of what is considered an
10 unfavorable lifestyle is not the case.

11 Meaning that -- I'm sorry -- many believe that the actions
12 taken by the powers that be and in the areas that matter the
13 most, such as our education, are actions that cripple the most
14 vulnerable, who are at risk and who are already living in
15 poverty and looking for a way out.

16 This is an unjust, and it starts as early as junior high
17 and rolling over into high school where students are taught by
18 the very individuals who are seeking loan forgiveness
19 themselves and teaching in red zone communities that obtaining
20 a higher education is the best way to go.

21 A large portion of these individuals are a part of an
22 at-risk community or their backgrounds stem from at-risk
23 communities. But the -- more importantly, these individuals --
24 because they are struggling and they are poor -- these
25 universities are able to present to them financial aid and

1 loan. Financial aid and loan may automatically help them
2 because they provide money.

3 At this time I just wanted to speak for those individuals
4 and hope that you take them into consideration. Thank you.

5 **THE COURT:** Thank you. And how much did you borrow?

6 **TREIVA JOHNSON:** Well, I was actually told I had to
7 borrow more money because I didn't have enough to cover. So I
8 went to University of Phoenix online, and I think my debt
9 totaled about 86,000.

10 **THE COURT:** Okay. Where do you live now?

11 **TREIVA JOHNSON:** I relocated from Denver, Colorado and
12 I moved to Houston, Texas.

13 **THE COURT:** Okay. And this is Treiva Johnson?

14 **TREIVA JOHNSON:** Yes, sir.

15 **THE COURT:** All right. Thank you for your comments,
16 Ms. Johnson.

17 **TREIVA JOHNSON:** You are very welcome.

18 **THE COURT:** Next.

19 **THE CLERK:** Thank you, Ms. Johnson.

20 Next is Jana Bergevin.

21 **JANA BERGEVIN:** Hello. Can you guys hear me?

22 **THE COURT:** Yes, your name, please.

23 **JANA BERGEVIN:** Jana Bergevin.

24 **THE COURT:** Richmond?

25 **JANA BERGEVIN:** Bergevin.

1 **THE COURT:** Okay.

2 **JANA BERGEVIN:** Hello, Your Honor. I'm a defrauded
3 borrower from California. I have been waiting for a decision
4 to be made on my borrower defense for over five years. And I
5 am --

6 **THE COURT:** Please go slower. It is too fast and I
7 can't hear it.

8 **JANA BERGEVIN:** Okay, sure.

9 And I'm against the settlement as it stands with the DOE.
10 I'm infuriated by the DOE's complete disregard for the student
11 borrowers. The DOE has assured me it is not interested in
12 upholding its side of the settlement in good faith. And this
13 is not the first time that it has done so in a California
14 court.

15 DeVos was held in contempt of court for the *Cavillo*
16 *Manriquez versus DeVos* case for violating the preliminary
17 injunction issued continuing to illegally collect on students.

18 Following DeVos being held in contempt, it was then
19 discovered that the impact was far greater than previously
20 reported. She has still not returned all the money owed to
21 students.

22 Not only does the DOE not operate in good faith, it
23 continues -- it also seeks to undermine its own mission
24 statement.

25 I direct your attention to an investigation by the House

1 Education and Labor Committee revealing that Diane Jones had
2 worked to paper over the Dream Center's deceptions. She
3 maliciously covered up the loss of accreditation of art
4 institutes owned by the Dream Center in multiple statements.
5 This debacle can be found in the Congressional record.

6 Finally, I will draw attention back to our current mass
7 denial reality, which is in direct violation of the law and
8 spirit of this very settlement.

9 Given the overwhelming evidence, DOE cannot be trusted to
10 uphold its fight of the settlement, I ask that the Judge remove
11 the decision from the DOE and place it in the hands of an
12 impartial and an independent body.

13 The shroud of civility has gone on too long. The DOE has
14 had five years of time in which to act promptly and with due
15 process. They have lost any shred of credibility and decency
16 that they ever had.

17 I thank you for your time.

18 **THE COURT:** And thank you. Where do you live now?

19 **JANA BERGEVIN:** I currently live in Pleasanton,
20 California.

21 **THE COURT:** And how much did you borrow?

22 **JANA BERGEVIN:** I borrowed -- initially it was
23 115,000. I have since paid it down to about 87,000.

24 **THE COURT:** Okay. Thank you. Next.

25 **THE CLERK:** Thanks, Ms. Bergevin.

1 Next is Danielle Adorno. Ms. Adorno, you may need to dial
2 star 6 on your phone to unmute.

3 **DANIELLE ADORNO:** Good morning, Your Honor. My name
4 is Danielle Adorno. I am a former student of the Art Institute
5 of New York who filed a borrower's defense repayment in 2015
6 and I was recently denied. I and countless others have waited
7 for a decision for years.

8 I'm speaking today against the proposed settlement. I do
9 not believe the Department of Education's decision to due
10 process and the results were reached in a fair manner. The
11 outcome reached negatively impacts the lives of all the
12 students who were fraudulently misled by the respective
13 institutions.

14 The DOE were and still are aware of these fraudulent
15 practices and continue to allow these organizations to operate
16 in dire of financial deed at the expense of vulnerable
17 students.

18 The students who have been affected by this have been
19 burdened with federal and private loans for degrees that are
20 worthless and not recognized. Some students are saddled with
21 tremendous debt and have no degree to show it.

22 I ask that these institutions be held accountable and that
23 the debt incurred be discharged for all current and former
24 students who have an (inaudible) of these so-called
25 institutions of learning.

1 Countless lives have been upended due to these debts and
2 (inaudible) restitution. These institutions are actively
3 taking advantage of people who are making the effort to work
4 towards a better future and be accomplished productive members
5 of our society.

6 Rather than being protected by the regulations in place by
7 the Department of Education -- the entity that is charged with
8 ensuring our school systems remain effective and equitable --
9 these are left to the wolf that is predatory education who has
10 been flagrantly exposing people with impunity by sending them
11 an education that did not live up to the code name.

12 Thank you, and I appreciate your time.

13 **THE COURT:** Thank you. Where do you live now?

14 **DANIELLE ADORNO:** I live in New York.

15 **THE COURT:** And what was the amount that you borrowed?

16 **DANIELLE ADORNO:** Federally I borrowed 21,000, and
17 privately I borrowed 5,000 for a 9-month program.

18 **THE COURT:** Thank you. Thank you. We will go to the
19 next person, but I need to -- I need to ask everyone who is
20 speaking -- especially if you are on cell phone -- to speak
21 slowly kind of like the way I am because it is hard -- it is
22 sometimes hard to hear perfectly.

23 Some of you come through clearly, and some of you come
24 through a little muffled. So if you are on a cell phone,
25 please -- even if you are reading it, speak slowly. It will

1 also help the court reporter. It will also help me. I want to
2 get everything that you have to say. Okay, Angela, next.

3 **THE CLERK:** Next is Rebekah Sanchez Norton.

4 **REBEKAH SANCHEZ NORTON:** Thank you, Your Honor, for
5 this opportunity to share the importance and potential impact
6 of the proposed settlement to me, my family and my fellow
7 defrauded borrowers.

8 As a working mother of four children, two of whom are
9 special needs, and a community-based mental health worker, I
10 was hopeful for justice and submitted my claim and was received
11 by the Department of Education On November 3rd of 2016.

12 When I received notification about the proposed
13 settlement, I was hopeful that the extended delay of a decision
14 on my claim was nearing an end and that our federal courts
15 would enforce a timely review of claims that like mine were in
16 status for years.

17 Enforcing the terms of what proposed was a fair and
18 appropriate resolution would acknowledge the significance of my
19 continued financial devastation and validate the callous and
20 seemingly mass volume of denials by the Department of Education
21 three months following the settlement agreement.

22 Among this group I am certainly not the only person who
23 submitted claims but because of loans are unable to provide for
24 their families due to fraudulent schools.

25 Not the only one in their 40s unable to contribute to

1 retirement funds and have been ineligible for employment
2 opportunities limited only due to my debt to income ratio with
3 momentous student loans making me considered incompatible for
4 County and State jobs due to the set ratio and providing an
5 appearance of irresponsible disregard of finances to
6 organizations; organizations that defrauded me and other
7 borrowers.

8 I am sure most others in the courtroom today have also
9 been denied loans for vehicles and are unable to invest in a
10 home themselves or a family like I am.

11 As one of the thousands of borrowers denied relief only
12 after April's agreement, I understand that the debilitating
13 financial devastation that my family and I have faced is not
14 what is under review today.

15 When my claim was denied in July after years of waiting
16 for review, adequate notice that was agreed on in the
17 settlement was not provided me. I was dismissed with a vague,
18 confusing and incomplete explanation of decision.

19 Your Honor, I believe our country, its public servants and
20 general population fundamentally strive for justice, equality
21 and genuinely values honesty and integrity. And I hope you can
22 help the borrowers obtain that justice. Thank you, Your Honor.

23 **THE COURT:** Okay. You said that you received a denial
24 in July?

25 **REBEKAH SANCHEZ NORTON:** Yes, sir.

1 **THE COURT:** How long was that -- how long a statement
2 was it?

3 **REBEKAH SANCHEZ NORTON:** Oh, it was very brief and
4 vague. I didn't understand. It was very confusing and without
5 complete sentences. There was no explanation of this denial
6 after three and a half years and literally pounds, I mailed, of
7 supporting information.

8 **THE COURT:** What -- do you have it right there with
9 you?

10 **REBEKAH SANCHEZ NORTON:** My documents? Or the
11 application?

12 **THE COURT:** The denial.

13 **REBEKAH SANCHEZ NORTON:** The denial, I can -- it's on
14 the same phone in my e-mail box, Your Honor.

15 **THE COURT:** Well, can you -- if you had it handy, I
16 would like you to read the denial out loud so I can hear what
17 it said.

18 **REBEKAH SANCHEZ NORTON:** Yes, Your Honor. Let me grab
19 that. I apologize.

20 (Pause in proceedings.)

21 **THE COURT:** Let's do this: While you look for it, we
22 will go to the next person and I will come back to you.

23 **REBEKAH SANCHEZ NORTON:** I appreciate it, Your Honor.
24 Thank you.

25 **THE COURT:** Okay. Next.

1 **THE CLERK:** Next is Victoria Linssen. Ms. Linssen,
2 you may need to dial star 6 to unmute your phone.

3 (Pause in proceedings.)

4 **MS. LINSSEN:** Can you hear me?

5 **THE COURT:** Yes, now we can.

6 **MS. LINSSEN:** Okay. So sorry. It took me a few
7 seconds to unmute.

8 Good morning, Your Honor. I applied for my Brooks
9 borrower's defense to -- application in October of 2016. I'm
10 still waiting to be -- I'm still waiting for my application to
11 be reviewed. I have received neither a denial or an approval,
12 and I just have a very short statement today.

13 What I'm witnessing amongst my fellow classmates is that
14 it feels to me like the borrower's defense to repayment
15 application that are now being reviewed are being blanket
16 denied whether or not a student has a legitimate claim.

17 And I would really like to be provided with transparency
18 on the exact criteria and data points that the applications are
19 being approved or denied for.

20 And that is it, short and sweet. Thank you, Your Honor.

21 **THE COURT:** And where do you live now?

22 **MS. LINSSEN:** I live in Muncie, Indiana. I lost my
23 job, my livelihood. Lost my home. My car. Was out of work
24 for four years and forced to move seven states and 1,800 miles
25 away from my family to get work.

1 **THE COURT:** How much did you borrow?

2 **MS. LINSSEN:** I initially borrowed I think around -- I
3 want to say around 80 or 90,000. And I have been paying
4 consistently on my private student loans for eight years. And
5 that balance for my private student loans have -- I have paid
6 \$30,000 on my private student loans, and the balance has gone
7 down by \$2,000.

8 I owe \$77,000 on my private student loans. And my federal
9 student loans started at around \$45,000. And with interest,
10 they have ballooned to over 65,000. So I'm over \$125,000 in
11 debt and in student loans right now.

12 **THE COURT:** What was the name of the institution or
13 the school?

14 **MS. LINSSEN:** I went to The Brooks Institute of
15 Photography, which in its height was a private institution and
16 then was bought by Career Education Core. They had a class
17 action lawsuit filed against The Brooks Institute and -- in
18 around 2003 to 2005.

19 When I attended, I asked some very hard questions to the
20 administrators about that lawsuit and I was -- I was told that
21 my concerns were valid items; that the previous lawsuit items
22 and issues had been cleaned up. And, in fact, they had
23 actually not been cleaned up.

24 And I believe that when Brooks went downhill is when they
25 were purchased by Career Education Corporation, and that's when

1 the fraud against the students began. Brooks was accepting
2 loans for students all the way up until the day they filed
3 bankruptcy, and they were expanding leases on properties in
4 Southern California also all the way up until the day they
5 filed bankruptcy.

6 **THE COURT:** All right. I wish I had more time to hear
7 it all, but I appreciate very much your coming in.

8 Now, let's go back to Ms. Rebekah Sanchez Norton, I
9 believe it was.

10 **REBEKAH SANCHEZ NORTON:** Yes, Your Honor. I have it
11 right here. Thank you for that time.

12 Would you like me to read the Department of Education -- I
13 will just start. I apologize.

14 It is dated July 10 of 2020. It has my application number
15 and my name (reading):

16 Dear Rebekah Norton: The U.S. Department of Education
17 (ED) has completed its review of your application under the
18 applicable borrower defense to repayment regulations for
19 discharge of your William D. Ford federal direct loans (direct
20 loans) made in connection with your or your child's enrollment
21 to Brooks Institute.

22 You, in quotation marks, as used here should be read to
23 include your child if you are a direct plus loan borrower who
24 requested a discharge for loans taken out to pay for a child's
25 enrollment at Brooks Institute.

1 ED has determined that your application is ineligible for
2 relief based on review of the facts of your claim and the
3 regulatory criteria for relief. This decision means that your
4 direct loans will not be discharged. ED explains the reasons
5 below.

6 Applicable law. For direct loans first disbursed prior to
7 July 1st, 2017, a borrower may be eligible for a discharge
8 (forgiveness) or part or all of one or more direct loans if the
9 borrower's school engaged in acts or omissions that would give
10 rise to cause of action against the school under applicable
11 State law.

12 Would you like me to quote the law? It then says: See
13 with squiggles 455(H) of the Higher Education Act of 1965 as
14 amended 20 U.S.C., squiggles, 1087E(H) and 34CFR, more
15 squiggles, 685.26C and 685.222, the borrower defense
16 regulations.

17 ED recognizes a borrower's defense to repayment of a
18 direct loan only in the cause of action if the cause of action
19 directly relates to the direct loan or to the school's
20 provision of educational services for which the direct loan was
21 provided.

22 34CFR, two more squiggles, 685.206(c)(1) and 6851.222(a)
23 (5), U.S. Department of Education notice of interpretation, 60
24 Fed Reg. 37,769 (July 21, 1995).

25 Then in bold it says: Why was my application determined

1 to be ineligible?

2 ED reviewed your borrower defense claims based on any
3 evidence submitted by you in support of your application. Your
4 loan data from National Student Loan Data System (NSLDS) and
5 evidence provided by other borrowers.

6 Allegation 1, other. You allege that Brooks Institute
7 engaged in misconduct related to other.

8 This allegation fails for the following reasons: Failure
9 to state a legal claim. Your claim for relief on this basis
10 therefore is denied.

11 Allegation 2, educational services. You allege that
12 Brooks Institute engaged in misconduct related to educational
13 services.

14 This allegation fails for the following reasons: Failure
15 to state a legal claim. Your claim for relief on the basis,
16 therefore, is denied.

17 Allegation 3, transferring credits. You allege that
18 Brooks Institute engaged in misconduct related to transferring
19 credits.

20 This allegation fails for the following reasons: Failure
21 to state a legal claim. Your claim for relief on this basis,
22 therefore, is denied.

23 Allegation 4, career services. You allege that Brooks
24 Institute engaged in misconduct related to career services.

25 This allegation fails for the following reasons:

1 Insufficient evidence. Your claim for relief on this basis,
2 therefore, is denied.

3 Allegation 5, program costs and nature of loans. You
4 allege that Brooks Institute engaged in misconduct related to
5 program costs and nature of loans.

6 This allegation fails for the following reasons:
7 Insufficient evidence. Your claim for relief on this basis,
8 therefore, is denied.

9 Allegation 6, employment prospects. You allege that
10 Brooks Institute engaged in misconduct related to employment
11 prospects.

12 This allegation fails for the following reasons:
13 Insufficient evidence. Your claim for relief on this basis,
14 therefore, is denied.

15 What evidence was considered in determining my
16 application's ineligibility? We reviewed evidence provided by
17 you and other borrowers who attended your school.

18 Additionally, we considered evidence gathered by the --
19 from the following four sources: New York Attorney General's
20 Office, Pennsylvania Attorney General's Office, evidence
21 obtained by the Department in conjunction with its regular
22 oversight activities, publicly available security filings made
23 by Career Education Corporation, now known as Perdoceo
24 Education Corporation; multi-state Attorney General assurance
25 of voluntary compliance effective January 2nd, 2019.

1 What do I -- what if I do not agree with this decision?
2 If you disagree with this decision, you may ask ED to
3 reconsider your application.

4 To submit a request for reconsideration, please send an
5 e-mail with the subject line "request for reconsideration,
6 reference 00Dt0GYIQ._500t0DPQQS:ref to borrowerdefense@ed.gov
7 or mail your request to U.S. Department of Education, P.O. Box
8 1854, Monticello, Kentucky, 42633.

9 In your request for reconsideration please provide the
10 following information: Which allegations you believe that the
11 ED incorrectly decided; why you believe that ED incorrectly
12 decided your borrower defense to repayment application; and,
13 three, identify and provide any evidence that demonstrates why
14 ED should approve your borrower defense to repayment claim
15 under the applicable law set forth above.

16 ED will not accept any requests for reconsideration that
17 includes new allegations. If you wish to assert allegations
18 that were not included in your application, please see the
19 following section.

20 Additionally, your loans will not be placed into
21 forbearance unless your request for reconsideration is accepted
22 and your case is reopened.

23 Failure to begin or resume repayment will result in
24 collection activity including administrative wage garnishment,
25 off-set of state and federal payments you may be owed and

1 litigation.

2 For more information about the reconsideration process,
3 please contact our borrower defense hotline at 1-855-279-6207
4 from 8:00 a.m. to 8:00 p.m. Eastern Time, ET, on Monday through
5 Friday.

6 Can I apply for borrower defense if I have additional
7 claims? If you wish to file a new application regarding acts
8 or omissions by the school other than those described in the
9 borrower defense application -- and then it has case number in
10 paren, but like the words case number, not actual numbers --
11 please submit an application at
12 [studentaid.gov\borrower-defense](http://studentaid.gov/borrower-defense).

13 In the new application you should explain in the relevant
14 sections the basis for any new borrower defense claims and
15 submit all supporting evidence.

16 What should I do now? Besides cry. Because your borrower
17 defense to repayment application was found to be ineligible,
18 you are responsible for repayment of your loans.

19 ED will notify your servicers of the decision on your
20 borrower defense to repayment application within the next 15
21 calendar days, and your servicer will contact you within the
22 next 30 to 60 calendar days to inform you of your loan balance.

23 Further, if any loan balance remains, the loans are
24 returned to their status prior to the submission of your
25 application.

1 If your loans were in forbearance as a result of your
2 borrower defense application, the servicer will remove these
3 loans from forbearance. *See COVID-19 note below.

4 If your loans are in default and are currently in stopped
5 collections, your loans will be removed from stopped
6 collections.

7 Failure to begin or resume repayment could result in
8 collection activity such as administrative wage garnishment,
9 off-set of state and government payments that you may be owed
10 and litigation. *See COVID-19 note below.

11 While normally interest would not be waived for
12 unsuccessful borrower defense applications, given the extended
13 period of time it took ED to complete the review of the
14 application, the Secretary is waiving any interest that accrued
15 on your direct loans from the date of the filing of your
16 borrower defense application to the date of this notification.

17 Your servicer will provide additional information in the
18 coming months regarding the specific amount of interest
19 adjusted. *See COVID-19 below.

20 *COVID-19 note: On March 27, 2020, the President signed
21 the CARES Act, which among other things provides broad relief
22 and response to coronavirus disease, 2019 (COVID-19) for
23 federal student loan borrowers whose loans are owned by ED.

24 For the period of March 2020 through September 30th, 2020,
25 the interest rate on the loans will be zero percent and no

1 payments will be required.

2 During the same period for defaulted borrowers all
3 proactive collection activities, wage garnishments and treasury
4 off-sets will be stopped.

5 Your federal loan servicer will answer any questions you
6 have about your specific situation. In addition, federal
7 student aid's COVID-19 information page for students borrowers
8 and parents are located at [studentaid.gov\coronavirus](https://studentaid.gov/coronavirus). Please
9 visit the page regularly for updates.

10 What if I have another pending borrower defense
11 application? If you have an additional pending defense --
12 borrower defense to repayment application, this information
13 applies to you: If your loans associated with an additional
14 borrower defense to repayment application that is still
15 pending, are in forbearance or another status that does not
16 require you to make payments, your loans will remain in
17 forbearance or that other status.

18 Similarly, if your loans associated with that borrower
19 defense application are in default and you are currently in
20 stopped collections, those loans will remain in stopped
21 collections.

22 If you are unsure if you have additional pending
23 applications or if you would like to check the status of your
24 loans associated with an additional application, contact our
25 borrower defense hotline at 855-279-6207 from 8:00 a.m. to

1 8:00 p.m. ET on Monday through Friday.

2 ED offers a variety of loan repayment options including
3 the standard 10-year repayment plan as well as extended
4 repayment, graduated repayment and income-driven repayment
5 plans.

6 For more information about student loan repayment options,
7 visit studentaid.gov/plans. If you have questions about the
8 status of your loans or questions about repayment options,
9 please contact your servicers.

10 If you do not know the name of your federal loan servicer,
11 you may go to studentaid.gov to find your servicer and get your
12 federal loan information.

13 Sincerely, U.S. Department of Education, Federal Student
14 Aid.

15 **THE COURT:** All right. Thank you.

16 **REBEKAH SANCHEZ NORTON:** Thank you, Your Honor.

17 **THE COURT:** I noticed in the discussion about what I
18 can do now -- or what you can do now, there was no mention that
19 everyone has the right to go to court.

20 **REBEKAH SANCHEZ NORTON:** No, Your Honor.

21 **THE COURT:** It doesn't mention that. But you do have
22 that right. And that's not what is involved in this lawsuit.

23 What is involved in this lawsuit is trying to get a
24 decision. But once a decision is made -- those notices maybe
25 should have said: By the way you have the right to sue us in

1 your District Court if you feel that the decision is not a
2 correct decision.

3 So I'm concerned over that lack of notice to that effect.
4 And all class members should be aware of that procedural
5 option. Ms. Norton, where do you live?

6 **REBEKAH SANCHEZ NORTON:** I'm a military brat who
7 landed in Ventura County, California.

8 **THE COURT:** All right. Well, you did a very good job
9 reading that.

10 **REBEKAH SANCHEZ NORTON:** Thank you, Your Honor. Sorry
11 there was a delay.

12 **THE COURT:** What do you do for a living?

13 **REBEKAH SANCHEZ NORTON:** Currently I serve the
14 Medi-Cal community in connecting them to services that are
15 appropriate mental health providers or pointing them to the
16 county for more intensive care.

17 **THE COURT:** And how much did you borrow?

18 **REBEKAH SANCHEZ NORTON:** Originally I borrowed, I want
19 to say, about 72,000. But I was unable to transfer credits, so
20 I attended -- to be eligible for the job I have now, only
21 another private institution would accept a degree, after much
22 begging and pleading. And so I now currently owe over 170,000.
23 And I only borrowed 20,000 on the additional private before
24 stopping.

25 **THE COURT:** What was the name of the institution you

1 went to? Was it called Brooks?

2 **REBEKAH SANCHEZ NORTON:** I went to Brooks, yes,
3 Your Honor.

4 **THE COURT:** All right. All right.

5 **REBEKAH SANCHEZ NORTON:** Thank you for your time.

6 **THE COURT:** Thank you. All right. Let's go to the
7 next person.

8 **THE CLERK:** All right. Thank you, Ms. Norton. Next
9 is Maureen Simmons.

10 **MAUREEN SIMMONS:** Good morning, Your Honor. My name
11 is Maureen Simmons.

12 I filed borrower's defense for \$10,000 in loans for Med
13 Help Training School who fraudulently received the loans on my
14 behalf.

15 When I received the e-mail notifying me of the settlement
16 agreement in this matter, I was thrilled at the prospect of
17 finally getting closure for an issue that has been in limbo for
18 years.

19 Unfortunately, several days later I received an e-mail
20 from the Department of Education dismissing my borrower defense
21 application.

22 The Department's vague e-mail claimed there were flaws in
23 my application; though, my application addressed every issue
24 they outlined in great detail.

25 I contacted the class attorneys, but soon learned the

1 Department was issuing blanket decisions for thousands of
2 applications just days after the settlement agreement.

3 Secretary DeVos continues to practice widespread abuse of
4 power that has harmed thousands of class members and her
5 actions circumvent the intentions of the settlement agreement.

6 Like so many others, my application was dismissed without
7 so much of a review of the materials I presented. This smacks
8 in the face of fairness. So I beg the Court to not allow this
9 settlement agreement to proceed.

10 Your Honor, I deserve better. And the members of this
11 class deserve better. Thank you.

12 **THE COURT:** Thank you, Ms. Simmons. Where do you
13 live?

14 **OTHER ATTORNEY:** I currently live in Northern
15 California in Fairfield.

16 **THE COURT:** All right. Thank you. Next.

17 **THE CLERK:** Thank you, Ms. Simmons. Next is Tarah
18 Gramza. You may need to unmute your phone by dialing star 6.

19 (Pause in the proceedings.)

20 **THE CLERK:** It looks like you are unmuted, but we
21 still can't hear you.

22 **TARAH GRAMZA:** Sorry. Can you hear me now?

23 **THE CLERK:** Yes, we can.

24 **TARAH GRAMZA:** Sorry about that. Good morning. Thank
25 you, Your Honor, for letting me speak this morning.

1 I applied in September 2016 for borrower defense program
2 prior to there being a formalized application.

3 After my school, American Intercontinental University
4 online owned by Career Education Corporation or CEC, which we
5 have heard commonly this morning, had multiple sanctions for
6 misbehavior for lying about education, quality, quality of
7 teachers, pressure to enroll, cost of education and others --
8 all of which I personally experienced while attending -- I
9 submitted five separate, carefully written and thought-out
10 complaints with numbered allegations and links to citations and
11 even added additional evidence when CEC had its DOJ settlement
12 for the exact same allegations in 2019.

13 After the *Sweet versus DeVos* proposed settlement, my case
14 was denied in July 2020 with the decision "lack of evidence"
15 for one of the five complaints.

16 The other four complaints were completely ignored and no
17 other explanation was provided.

18 When I called the defense care center, they said to
19 reapply for a new application and file an appeal as well as
20 that they could not see the original complaint due to their
21 system issues of which I did complete.

22 I recently received another e-mail asking for a copy of my
23 original complaint -- yes, from 2016 -- by the Department of
24 Education because they could not see my complaint of which I
25 sent again.

1 If the Department is going to use this settlement to mass
2 deny cases and not even review them thoroughly and give them
3 any formal look at, this settlement is completely pointless and
4 doesn't resolve the lawsuit in a fair manner for us at all.
5 Thank you.

6 **THE COURT:** Okay. Tell me your name. I didn't get
7 it.

8 **TARAH GRAMZA:** Sure. My first name is Tarah, and my
9 last name is Gramza.

10 **THE COURT:** Spell the last name.

11 **TARAH GRAMZA:** Sure. It is G-R-A-M-Z-A.

12 **THE COURT:** What was the first T or P?

13 **TARAH GRAMZA:** G, as in George. And my first name is
14 Tarah with a T.

15 **THE COURT:** Okay. Where do you live?

16 **TARAH GRAMZA:** I live in Arizona.

17 **THE COURT:** And how much did you borrow?

18 **TARAH GRAMZA:** About \$85,000. I'm now just under
19 \$100,000 with the interest.

20 **THE COURT:** Okay. Thank you very much. Next.

21 **THE CLERK:** Thank you, Ms. Gramza. Next is Evelyn
22 Segovia.

23 **EVELYN SEGOVIA:** Hello. My name is Evelyn Segovia.
24 Let me walk away. I think I'm getting some feedback.

25 **THE CLERK:** If you have another device logged in, you

1 should hang up there.

2 **EVELYN SEGOVIA:** I'm -- so I started attending
3 University of Phoenix in 2007. I graduated in 2011 and with
4 approximately \$69,000 in debt. And it has since ballooned to
5 around \$82,000 in debt due to interest.

6 I received almost the same exact denial letter that one of
7 the previous speakers mentioned. And they specifically stated
8 that they also reviewed information from the FTC in regards to
9 deciding my application just like they did in hers.

10 I find that especially interesting considering that in
11 2009 the Department of Education produced a report claiming the
12 untimely return of title funds for more than 10 percent of
13 sampled students.

14 The University of Phoenix has settled a false claims suit
15 for \$78 and half a million in 2009. In 2014 the U.S.
16 Department of Education's Office of the Inspector General
17 demanded records from University of Phoenix and the Apollo
18 Group going back to 2007, which was when I was attending,
19 related to marketing recruitment, enrollment, financial aid,
20 fraud prevention and student retention.

21 In October of 2015, the U.S. Department of Defense
22 suspended the school's ability to recruit on U.S. military
23 bases and receive federal funding for educating members of the
24 U.S. Military.

25 The Federal Trade Commission began investigating the

1 University in 2015 in regards to an advertising campaign that
2 ran in 2012 through 2014. There was also a settlement in
3 relation to that.

4 So to cite in my denial letter that you considered
5 evidence that both other borrowers submitted along with
6 evidence that the FTC already had seems fraudulent because they
7 very clearly did not review their own records considering that
8 I attended at the same time that they also allege that my
9 school participated in predatory practices. So with that,
10 I'm -- I just believe that they are also issuing blanket
11 denials.

12 If you, yourself, accuse a school of predatory lending
13 practices and fraudulent activity, then it -- you know, it is
14 reasonable to assume that the students who are alleging the
15 same misconduct would receive that same consideration. That's
16 all I have to say.

17 **THE CLERK:** Your time is up.

18 **THE COURT:** Okay. Next.

19 **THE CLERK:** Are you ready to hear the next person?

20 **THE COURT:** Yes, I am. Next.

21 **THE CLERK:** Next is Cassandra Nordman.

22 **CASSANDRA NORDMAN:** Thank you, Angela. And thank you,
23 Judge Alsup for your time.

24 My name is Cassandra Nordman. I attended McNally Smith
25 College of Music in St. Paul, Minnesota. I borrowed around

1 75,000.

2 My college targeted minorities and lower income
3 households; lied about their accreditation; convinced us to
4 take hundreds of thousands of dollars in loans; fraudulently
5 altered our graduation requirements; and led us into additional
6 semesters and additional loans; and washed their hands of us in
7 a bankruptcy filing that left absolutely nothing for former
8 students and no personal local recourse.

9 Now we sit with our futures wrecked by debt and
10 meaningless degrees. The borrower's defense is the only chance
11 we supposedly have.

12 We are not millennials looking for an easy way out. We
13 are hardworking individuals who trusted our federal government
14 to provide us with the ability to seek higher education. We
15 are not lazy. We are the young adults who are committed to
16 hundreds of thousands of dollars of debt as teenagers. Many of
17 us without the support of family.

18 We are the people who grew up here, and you have to go to
19 college to defy the odds to get ourselves there. Now, after we
20 have been maliciously taken advantage of, we have fought
21 through the only (inaudible) available to us, the borrowers
22 defense.

23 (Inaudible) education holding our future captive, in best
24 case scenarios or dismissed in mass for people speaking today.
25 I hear the fight and pain in other people speaking that I have

1 known constantly for the last five years.

2 The settlement alone include 160,000 Americans currently
3 being crippled by not only a pandemic but to the
4 administrations' desperate account to look away from the
5 devastating effect of predatory institutions.

6 There is no question that these types of establishments do
7 not align with our American values as evident in the admissions
8 of this process.

9 The Department of Education continues to do everything in
10 their power to keep from rectifying the wrongdoing of these
11 institutions. Holding up this process and dismissing cases
12 without real consideration is actively causing harm.

13 I'm sure you can imagine the crossover in currently
14 unemployed people who were taken advantage of by these
15 for-profit institutions. If anything, the settlement does not
16 begin to come close to doing anything to assure us.

17 I ask the Court to remove the decision of the borrower's
18 defense application from the Department of Education and place
19 the investigation in the hands of an independent organization.
20 Thank you for your time.

21 **THE COURT:** All right. Thank you. Next.

22 **THE CLERK:** Next is Hugh McGinley but I'm not seeing
23 him anymore.

24 So if you are here, Mr. McGinley, please raise your hand
25 and I will call you after the next person.

1 Ashley Hardin, you may need to dial star 6 to unmute your
2 phone.

3 **ASHLEY HARDIN:** Good morning, Honorable Alsup. Can
4 you hear me?

5 **THE COURT:** Yes, I can. Thank you.

6 **ASHLEY HARDIN:** Fantastic. My name is Ashley Hardin
7 and I graduated from Brooks Institute, a CEC owned school, in
8 2009.

9 And I have spent the last 11 years of my life thwarting
10 through and dealing with what feels very much like a
11 bamboozlement.

12 I feel I, along with my colleagues, have -- were taken
13 advantage of and preyed upon by not only our college but by the
14 federal government and their servicers.

15 I am not alone when I say that I have spent a great deal
16 of time and pain in recalling and preparing my application for
17 the review process only to be part of what feels like a blanket
18 denial in which I don't think my application or my colleagues
19 were properly reviewed nor judged.

20 At this time I have questions which is -- which are: Did
21 lawyers review our applications? Also, without further
22 information and direction from the Department of Education on
23 the denial reasonings or any further explanations regarding the
24 denial letters, how do you recommend we proceed to appeal?

25 Thank you for your time.

1 **THE COURT:** I wish I could answer that. I don't have
2 any answers of that problem.

3 **ASHLEY HARDIN:** Okay.

4 **THE COURT:** You should talk to the class action
5 lawyers here, Ms. O'Grady. She is on the line and she
6 represents the class, and she could give you some advice about
7 that but --

8 **ASHLEY HARDIN:** Perfect. Thank you.

9 **THE COURT:** But as the Judge, I -- I can't really get
10 into giving you advice on how to proceed but she can.

11 **ASHLEY HARDIN:** Sure. Okay.

12 **THE COURT:** I could hear your comments. Where do you
13 live?

14 **ASHLEY HARDIN:** I currently reside in Seattle,
15 Washington.

16 **THE COURT:** And how much did you say you borrowed?

17 **ASHLEY HARDIN:** I borrowed over 150,000. And I
18 currently over 133,000.

19 **THE COURT:** All right.

20 **ASHLEY HARDIN:** I was current from about 2013 up until
21 March of 2020.

22 **THE COURT:** Did you also get a denial letter?

23 **ASHLEY HARDIN:** I did. I applied for borrower defense
24 November 2nd, 2016, and received my denial letter on July 10th,
25 2020.

1 **THE COURT:** Okay. I appreciate your -- tell me
2 this -- I couldn't understand one part -- do you --

3 **ASHLEY HARDIN:** Sure.

4 **THE COURT:** Do you support -- do you want me to
5 approve this final settlement or do you want me not to approve
6 it?

7 **ASHLEY HARDIN:** I'm for the settlement. I just don't
8 feel like the Department of Ed held up their end of the stick.

9 **THE COURT:** Okay. Let's go to the next --

10 **ASHLEY HARDIN:** Thank you.

11 **THE CLERK:** Thank you, Ms. Hardin. It looks like
12 Mr. McGinley is back. Mr. McGinley, you can -- sorry. I think
13 I just muted you after you unmuted yourself.

14 **HUGH MCGINLEY:** No problem. Thank you, Judge Alsup
15 for listening to us. The time you have already given us is way
16 more than DOE and Betsy DeVos have given us.

17 I disagree with the proposed settlement agreement in this
18 case because I think it is unfair to students. Under the
19 settlement motion Section A settlement class, this should
20 expand indefinitely. Not everyone is aware that they can
21 submit a defense to repayment against their fraudulent school.
22 So it excludes those who did not.

23 This should also include those who have already received a
24 decision and those who submit DTIs after the executed
25 settlement.

1 Under Section B relief, the 18 to 21-month time limit
2 given to the DOE to address submitted DTIs is too long and
3 lenient. The DOE has had plenty of time to address submissions
4 already; some like mine that have taken over four years to
5 address with still no response provided. Instead, the DOE has
6 used that time to ignore students and to rewrite the rules more
7 favorably towards schools.

8 They are also showing they are not taking this lawsuit
9 seriously and just blanket denying almost every DTI submission
10 since April of this year.

11 The 90-day time period the DOE has been given to report
12 their decision to Plaintiffs is also too long. This
13 information is easily shareable and should be provided once
14 every one to two weeks, if not on a daily basis.

15 In closing, I do not feel that Betsy DeVos and the DOE are
16 acting in good faith in regards to this lawsuit. The blanket
17 denials the DOE are giving out are a joke, and they are just
18 laughing in both our faces and the courts. They are just
19 giving out decisions to meet their requirement.

20 In my opinion all submitted DTIs should be approved and
21 the debt of these students should be forgiven, both federal and
22 private. The DOE should also be both penalized and
23 investigated for their mishandling and blatant ignorance
24 towards all DTI submissions for many years now.

25 Finally, Betsy DeVos and the DOE should apologize to the

1 Plaintiffs, the Court and to you, Judge Alsup, for treating
2 this lawsuit as a joke. Thank you.

3 **THE COURT:** What was your name again?

4 **HUGH MCGINLEY:** My name is Hugh McGinley. I currently
5 live in Los Angeles, California.

6 **THE COURT:** All right. And the amount of your loans?

7 **HUGH MCGINLEY:** I borrowed 90,000 for this particular
8 defense to repayment. It's over \$100,000 now.

9 **THE COURT:** Thank you.

10 **HUGH MCGINLEY:** You are welcome. Thank you.

11 **THE COURT:** I didn't understand. You oppose the
12 settlement; is that correct?

13 **HUGH MCGINLEY:** Yes. A lot of the terms in the
14 settlement I don't agree with. It gives the DOE -- it is too
15 lenient to the Department of Education.

16 **THE COURT:** And you would -- and did you get a denial
17 letter or not?

18 **HUGH MCGINLEY:** I did not, sir. It has been over four
19 years.

20 **THE COURT:** Okay. You are still waiting. All right.
21 Let's go to the next class member.

22 **THE CLERK:** Thank you, Mr. McGinley. Next is Kishan
23 Redding.

24 **THE COURT:** We cannot hear you. Please push the right
25 buttons.

1 **KISHAN REDDING:** Good morning, Your Honor.

2 **THE COURT:** We hear you now.

3 **KISHAN REDDING:** Great. Good morning.

4 I am saddened but also comforted by my fellow class
5 members' stories. I truly felt alone until this morning.

6 While I am in support of the proposed settlement, I would
7 like to express my concerns regarding oversight and the process
8 of reviewing applications.

9 I feel that applications are not reviewed as thoroughly
10 and appropriately as they should be. For example, after
11 waiting for four years, I received a response denying my
12 application with a total of less than 30 words. I find wholly
13 suspect that my decision just so happened to be received around
14 the time this case was being settled.

15 If the Department of Education was taking years to respond
16 to applications, logically I feel there is reason for me to
17 question how they would manage and respond to class members'
18 applications within 18 months without rushing through the
19 process.

20 We all know that we have had some major changes in the
21 world, in this country. And now there is another concern. How
22 are these investigations going to be completed thoroughly when
23 a lot of schools are having alternate class arrangements?

24 How will they investigate fairly; converse with other
25 students and get information from enough sources related to the

1 schools when people are still in transition trying to figure
2 out how to make school work? These are questions that class
3 members need to know.

4 Lastly, the Department claims they are provided with
5 information from other borrowers. And I question the
6 demographics of these borrowers.

7 As a person of color, I am well aware of disparities and
8 clear differences between borrowers of different identities and
9 insist the demographics are taken into account.

10 People of color, low income individuals and aspiring
11 artists, amongst many others, are preyed upon as it may be
12 difficult to get into different schools for a variety of
13 reasons.

14 The predators -- and I stand by that word -- of these
15 schools have taken advantage of thousands of students, and
16 those students are entitled to a fair and thorough -- I repeat,
17 fair and thorough -- review of their cases. Thank you very
18 much.

19 **THE COURT:** All right. Is it Redding, R-E-D-D-I-N-G?

20 **KISHAN REDDING:** Yes, Your Honor.

21 **THE COURT:** Where do you live, Mr. Redding?

22 **KISHAN REDDING:** I'm in Los Angeles, California.

23 **THE COURT:** What do you do for a living?

24 **KISHAN REDDING:** I'm actually unemployed right now,
25 but I worked pre-pandemic as a teaching artist in the school

1 districts.

2 **THE COURT:** All right. Well, I could -- I could hear
3 you very clearly. Are you on a landline or a cell phone?

4 **KISHAN REDDING:** I'm on the computer actually.

5 **THE COURT:** Really. Amazing, very clear. How much
6 did you borrow?

7 **KISHAN REDDING:** About 80,000.

8 **THE COURT:** Okay. And did you say you did get one of
9 those denial letters or did not?

10 **KISHAN REDDING:** Yes, I did receive a denial letter.

11 **THE COURT:** Okay. And do you support the settlement
12 as written or not?

13 **KISHAN REDDING:** I support the settlement if there is
14 oversight and people who are not related to the DOE overseeing
15 the process. I do not support the settlement if the DOE is
16 going to be able to do this alone.

17 **THE COURT:** Okay. All right. Thank you. Good luck,
18 Mr. Redding. Next.

19 **THE CLERK:** Those are all of the people that were
20 selected to speak that confirmed that they were able to speak.

21 **THE COURT:** I didn't hear you.

22 **THE CLERK:** Those are all of the people who were
23 selected to speak who showed up at the hearing.

24 **THE COURT:** Oh, I see. We have now heard everyone?

25 **THE CLERK:** That's correct.

1 **THE COURT:** It is hard for me to hear you too, Angela.
2 I don't know what, the acoustics are. We are done with the
3 list?

4 **THE CLERK:** We are done with the list.

5 **THE COURT:** I see. Okay.

6 **JANA BERGEVIN:** Your Honor, may I request to be able
7 to speak following up to something you have mentioned? I don't
8 know if I'm allowed that, but I thought I would ask.

9 **THE COURT:** I will let one more person speak, but I
10 can't let -- we have 511 people. And I just can't hear
11 everyone, you know. I have got other cases. And we selected a
12 representative group, but we will let you speak. One more. Go
13 ahead.

14 **JANA BERGEVIN:** Okay. Thank you. I had spoken before
15 but something, Your Honor, had said struck me very much, which
16 was that we could seek legal aid to combat these denials.

17 And I wanted to say that that is very far from the truth.
18 I have tried to sue, you know, on by borrower defense before to
19 push for this kind of decision making or just to get a
20 decision.

21 I contacted my local bar association. I contacted Air Reg
22 (phonetic). There are no lawyers that will represent a
23 borrower individually. They don't exist. So I just wanted to
24 reach out through this that experience.

25 **THE COURT:** That's good to know. Ms. O'Grady is on

1 the line. You should talk to her separately, not in front of
2 everybody. Maybe she can give you some advice on how to get a
3 lawyer to take an appeal to District Court in your case.

4 **JANA BERGEVIN:** I would be lucky because I live in
5 California, but I don't see this happening for other members
6 that are in other states. I just --

7 **MS. O'GRADY:** Your Honor, this is Margaret O'Grady.
8 If you wouldn't mind, can I address this question briefly?

9 **THE COURT:** Please, go ahead.

10 **MS. O'GRADY:** I would just like to reiterate there are
11 170,000 borrowers that are members of this class. I would love
12 to have the ability to represent every single one of them to
13 challenge the denials on the merits. I think, for many
14 reasons, that is plainly impractical.

15 And that is why we are here today; to hear from this class
16 of borrowers on the class-wide issue on the Department of
17 Education refusing to decide these borrower defense
18 applications on the merits.

19 And so I think that, as you identified, there is a problem
20 with the notices because they don't -- for many reasons -- but
21 one reason is they don't even state the borrower can seek
22 redress in their district court. And they don't provide enough
23 information for them to do so.

24 And, as Ms. Bergevin is noting, on an individual basis,
25 there is an impracticability here because there are, in this

1 case alone, 170,000 borrowers affected.

2 **THE COURT:** Thank you. That's good information for
3 everyone to have.

4 Well, I need to bring this to a close -- I mean the
5 hearing to a close. I don't know what to do about whether to
6 approve the settlement or not. I have to study this.

7 Okay. We will now sign off and we will bring -- I'm
8 bringing the hearing to a close unless -- I will let the
9 lawyers -- do the lawyers have anything further to say?

10 **MS. O'GRADY:** Your Honor, I would like to make two
11 more brief points if you will allow me.

12 **THE COURT:** Say it again.

13 **MS. O'GRADY:** I would like to make two more brief
14 points if you will allow me to.

15 **THE COURT:** Sure. Go ahead.

16 **MS. O'GRADY:** Thank you. The first is I just want to
17 express my gratitude and gratitude on behalf of the Plaintiffs'
18 counsel for everyone attending today and those class members
19 who spoke and everyone who asked to speak.

20 It is not often that we get together altogether and that
21 they get to communicate together. They are their best
22 advocates, and we are honored to represent you. So I wanted to
23 just give that message to all the class members.

24 I would also like to note that there has been a very
25 active chat during this hearing. Of course, I have been paying

1 attention to the speakers and haven't been able to go through.

2 But individuals who are on the line and in the chat have
3 been posting full texts of their denial letters. And other
4 borrowers are weighing in and saying: I received the exact
5 same denial letter, the exact same text, or I got the same
6 letter. Just the school name was different. People are
7 discussing this openly in the chat.

8 And I'm hoping, perhaps, there is a way to make the chat
9 part of the record because I think it is a really, really,
10 important validation of what the speakers have talked about
11 today, really applying to many hundreds more people than we
12 were able to hear from especially with regard to the actual
13 text being posted and people writing in that they received the
14 same words, word-for-word.

15 So I don't know if there is a way for that to become part
16 of the record, but I would like to just make sure that we note
17 that and preserve that in some way.

18 **THE COURT:** Angela, I don't know the answer to that.
19 That is a good question. Angela, is there a way to keep a
20 permanent record of all the chat boxes that showed up on the
21 screen? Quite a number of them. I saw some of them myself.
22 Is there a way to do that?

23 **THE CLERK:** Yes, there is, Your Honor. I was planning
24 on downloading the chat and providing it to the Court after the
25 hearing. And I will do so.

1 **THE COURT:** All right.

2 **MS. O'GRADY:** Wonderful.

3 **THE COURT:** So, yes, Angela is going to go do that.
4 We will make it part of the record. And, now, I didn't -- the
5 little things that I saw were just three or four sentence --
6 three or four words. I didn't see any full pictures of the
7 denial letters on my screen. But whatever we got here, I think
8 Angela is able to make a record of it. So we will do that.
9 Thank you for that.

10 **MS. O'GRADY:** Fantastic. Thank you so much. And
11 thank you so much, Angela, for organizing this today. Again,
12 it was galvanizing to hear from all the borrowers; and I'm glad
13 they were able to connect in the harm the delay has caused each
14 and every one of them.

15 **THE COURT:** Yes. I have been a Judge 21 years now,
16 and I have done a lot of class action hearings. And this is
17 the most interesting one of all because five -- over 500 people
18 tuned in -- way more than you would ever get in a normal class
19 action -- and we have done it so that people can show up from
20 all over the country. It is quite amazing.

21 I have a question that I would like the lawyers to address
22 for me and each of you -- don't address it now, but I want you
23 to submit a statement within one week, each of you.

24 In listening to the comments, it occurred to me that it
25 would be useful for me to know which educational institutions,

1 like University of Phoenix or Brooks, or whoever -- I don't
2 know the details of this myself -- but which of those
3 institutions have already been found by the Department of
4 Education or the FTC or a State Attorney General or some other
5 official to have been a fraudulent institution or engaged in
6 fraudulent solicitation of students.

7 You probably think that I know the answer to this off the
8 top of my head, but actually I don't. I don't know that. It
9 has never come up in this case before. But it would be useful
10 to me to have a list of those.

11 Now, down the road it might also be useful as to which
12 class members attended which of those schools. Now, I'm not
13 interested yet in the ones that haven't been adjudicated. Let
14 me just ask you, Ms. O'Grady, are there institutions that the
15 FTC has already said are fraudulent?

16 **MS. O'GRADY:** Yes, Your Honor. I don't have that list
17 off the top of my head either but that is certainly true.

18 **THE COURT:** What?

19 **MS. O'GRADY:** There are institutions that the FTC has
20 deemed fraudulent; and there is a number of institutions that
21 specific findings have been made by agencies about misconduct,
22 yes.

23 **THE COURT:** All right. So it may be that down the
24 road those institutions that have already been adjudicated to
25 be frauds, we might want to ask the Department of Education to

1 explain why they are denying, if they are, applications that
2 are associated with the fraudulent institutions.

3 **MS. O'GRADY:** Your Honor, we would be quite interested
4 in those explanations as well. And I can confirm that there
5 have been denials issued for such institutions already by the
6 Department.

7 **THE COURT:** Is that true, Mr. Merritt? That somebody
8 has already adjudicated the institution to be a fraud and yet
9 you are not -- you are not granting the loan application
10 relief?

11 **MR. MERRITT:** Your Honor, this is addressed a little
12 bit in one of the letters that the Defendant sent to the
13 Plaintiffs back in August. It is a part of the record attached
14 to one of Plaintiffs' motions. I also note that we have a
15 filing today potentially to address some of these issues as
16 well in response to the Plaintiffs' motion to enforce the
17 settlement agreement.

18 I would just note at this point that there are
19 institutions such as -- you mentioned federal and state
20 enforcement authorities -- have conducted investigations in
21 schools and determined they engaged in certain kind of
22 wrongdoings during certain periods of time.

23 It doesn't mean that, you know, individuals that were
24 subject to that wrongdoing would have a basis for borrower
25 defense.

1 It is not a matter of, you know, adjudicating a school
2 fraudulent across the board. It would be based on certain
3 actions at certain period of times. (Inaudible) school would
4 not necessarily prevent claims being denied from individuals
5 who attended the schools and were not affected by that
6 wrongdoing.

7 **THE COURT:** I don't know. Maybe. But maybe there is
8 a presumption that it's saying that the University of Jonestown
9 was found by the Attorney General of New York to be fraudulent
10 in the year 2010. That we could presume that it was still
11 fraudulent in the year 2011. I don't know the answer to that
12 but I want to see the list.

13 **MS. O'GRADY:** Your Honor, if I may, I think it would
14 be interesting to know the timeline and to discover what is a
15 floor and what is the ceiling. But there are instances where
16 students have actually received restitution for fraudulent
17 schools directly from a New York Attorney General finding and
18 then were denied by the Department.

19 We have an affidavit attached to our filing by Yvette
20 Collon when we filed for the additional case management
21 conference. And she is a person who received restitution but
22 then had her borrower defense denied.

23 So that is not an issue of timing or windows or anything
24 like that. That is a direct contradiction to a previous
25 finding. There are other examples. That is just one for now.

1 They are in our papers, previous papers.

2 I will note too those denials are unexplained. They say
3 they considered evidence from other adjudications and other
4 investigations. They may list the evidence, but then they deny
5 them without explanation of why that evidence wasn't found to
6 be relevant in this case; and they also do not mention any of
7 the evidence that the individual provided.

8 **MR. MERRITT:** Your Honor, I think a lot of that
9 points -- a lot of these claims, you know, at least pointed out
10 these cases brought based on the Department's delay in issuing
11 decisions. And that is kind of the class issue that has been
12 certified.

13 Obviously we are not here today to resolve any of the
14 disputes or issues, but it does point out that, you know,
15 borrowers submit different kinds of applications and the legal
16 sufficiency of the Department's response to any given case
17 would be a case specific determination and is not appropriate
18 for determination in these proceedings and in this class action
19 based on the claims that were brought.

20 **THE COURT:** All right. I'm going to end the hearing,
21 but I want to end with one statement and that is: If it turns
22 out that we undo the class settlement, we would have wasted a
23 lot of time that could have been used -- Ms. O'Grady, you could
24 have been taking depositions in the Department of Education of,
25 Ms. DeVos.

1 You could have been taking depositions of every one of
2 those people writing up the letters, the denial letters. And
3 none of that has been done on account of this "settlement."

4 So I -- if we do deny it, we are going to get huckle-buck.
5 I don't know if you know that word but that means fast. We are
6 going to get back into this case fast. We are going to
7 litigate it like a real lawsuit with depositions; people under
8 oath.

9 I don't know the answer. But I want to end by saying to
10 all of you who tuned in: Thank you. It is a tough problem. I
11 don't have a good answer. I wish I did. But thank you. I
12 appreciate all of your comments.

13 I'm going to step off the bench now. And Angela is going
14 to end the -- terminate all of the phone call stuff. Okay.
15 Bye-bye.

16 **THE CLERK:** I would like to say to everyone listening
17 that I'm already getting e-mails asking about transcripts and
18 how to access recordings of the hearings.

19 Please, please, please, don't e-mail me. As much as I
20 would love to respond to each and every one of you, I'm only
21 one person.

22 I will put information in the chat box right now about how
23 you can obtain a transcript of the hearing and access public
24 records in this case.

25 Again, please, please don't e-mail me. It is not because

1 I don't want to hear from you. It is just because I can't
2 physically respond to 700 e-mails.

3 You are welcome to log off, Counsel. It was nice meeting
4 both of you.

5 **MS. O'GRADY:** Thank you very much.

6 **MR. MERRITT:** Thank you.

7 (Proceedings adjourned at 9:22 a.m.)

8 ---oOo---

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10 **CERTIFICATE OF REPORTER**

11 We certify that the foregoing is a correct transcript
12 from the record of proceedings in the above-entitled matter.

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14 DATE: Sunday, October 18, 2020

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Marla F. Knox, RPR, CRR
U.S. Court Reporter

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