

**CLASS ACTION SETTLEMENT AGREEMENT AND RELEASE**

This Class Action Settlement Agreement and Release (“Agreement” or “Settlement Agreement”) is entered into on this \_\_\_\_ day of March, 2024, by and among Plaintiffs, Steven Doval, Melissa Cuello, and Ceana Cuello (collectively, “Plaintiffs” and/or “Class Representatives”), on behalf of themselves, individually, and the Settlement Class (as defined herein), on the one hand, and Fairleigh Dickinson University (“Defendant” or “FDU”), on the other hand. The Plaintiffs and the Defendant are collectively referred to herein as the “Parties.”

**I. RECITALS**

1.1 **WHEREAS**, on August 25, 2020, Plaintiffs Steven Doval<sup>1</sup>, Melissa Cuello, and Ceana Cuello filed the above-captioned putative class action complaint in the Superior Court of New Jersey, Bergen Vicinage (the “Action”).

1.2 **WHEREAS**, the Complaint filed in the Action alleged that FDU should have refunded tuition and fees to certain individuals for a portion of the Spring 2020 academic semester, after FDU transitioned to a remote learning format in order to comply with Governor Murphy’s executive order requiring all New Jersey institutions of higher education to cease in-person instruction to reduce the spread of COVID-19.

1.3 **WHEREAS**, based on FDU’s decision to transition to remote learning, Plaintiffs have asserted claims on behalf of themselves and have sought to assert claims on behalf of others similarly situated for breach of contract, unjust enrichment, conversion, and for money had and received.

1.4 **WHEREAS**, on October 29, 2020, Defendant filed a motion to dismiss, arguing among other points, that the Complaint alleges impermissible educational malpractice claims,

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<sup>1</sup> On May 18, 2020, Plaintiff Steven Doval filed an action in the United States District Court for the District of New Jersey. That matter was voluntarily dismissed on August 24, 2020.

and that the Complaint failed to identify any promise to provide in person instruction or any duty owed by FDU to provide a refund to students.

1.5 **WHEREAS**, on December 4, 2020, Plaintiffs filed their opposition to Defendant's motion to dismiss.

1.6 **WHEREAS**, on February 5, 2021, following oral argument, the Court denied Defendant's motion to dismiss.

1.7 **WHEREAS**, on February 19, 2021, Defendant filed an answer to the Complaint, denying the allegations and asserting 24 affirmative defenses.

1.8 **WHEREAS**, the Parties have engaged in formal discovery, including propounding and responding to requests for the production of documents and interrogatories.

1.9 **WHEREAS**, in discovery FDU produced approximately 4,788 pages of documents for Plaintiffs' review and Plaintiffs produced 27 pages of documents for FDU's review.

1.10 **WHEREAS**, during the discovery phase, Plaintiffs' Counsel and counsel for FDU initiated settlement discussions to resolve the litigation.

1.11 **WHEREAS**, on June 1, 2022, the Parties requested a brief stay of all case management deadlines to allow the Parties to focus their efforts on facilitating a potential resolution.

1.12 **WHEREAS**, on May 25, 2022 and February 15, 2023, the Parties participated in full-day mediation sessions before a third-party neutral, Hon. Frank A. Buczynski, Jr. (Ret.) in an attempt to resolve this action.

1.13 **WHEREAS**, although the two (2) mediation sessions were unsuccessful, the Parties maintained an open dialogue regarding potential resolution.

1.14 **WHEREAS**, in the ensuing months, the Parties continued their settlement dialogue directly.

1.15 **WHEREAS**, after extensive, vigorous discussions and arm's-length negotiations, and numerous exchanges of information and settlement proposals, the Parties were able to reach an agreement to resolve the Action, which Plaintiffs and their Counsel believe provides benefits to the Settlement Class, is fair, reasonable and adequate, and is in the best interests of Plaintiffs and Settlement Class Members.

1.16 **WHEREAS**, Plaintiffs believe that the claims asserted in the Action against Defendant have merit and that they would have prevailed at class certification, summary judgment, and/or trial.

1.17 **WHEREAS**, Defendant believes the claims asserted in the Action lack merit.

1.18 **WHEREAS**, Plaintiffs and Class Counsel recognize that Defendant has raised factual and legal defenses that present a risk that Plaintiffs may not prevail and they also recognize the expense and delay associated with continued prosecution of the Action against Defendant through class certification, summary judgment, trial, and any subsequent appeals.

1.19 **WHEREAS**, Plaintiffs and Class Counsel also have taken into account the uncertain outcome and risks of litigation, especially in complex class actions, as well as the difficulties inherent in such litigation, and believe it is desirable that the Released Claims, as further defined herein, be fully and finally compromised, settled, and resolved with prejudice.

1.20 **WHEREAS**, based on their evaluation, Class Counsel has concluded that the terms and conditions of this Agreement are fair, reasonable, and adequate to the Settlement Class, and that it is in the best interests of the Settlement Class to settle the claims raised in the Action pursuant to the terms and provisions of this Agreement.

1.21 **WHEREAS**, at all times, Defendant has denied and continues to deny any wrongdoing whatsoever and has denied and continues to deny that it committed, or threatened or attempted to commit, any wrongful act or violation of law or duty alleged in the Action, and maintained its opposition to certification of a litigation class.

1.22 **WHEREAS**, given the uncertainty and risks inherent in any litigation, the desire to avoid the expenditure of further legal fees and costs, the benefits that the class members will receive from a negotiated settlement, and Defendant's commitment to providing a quality and affordable personalized education experience for all students, Defendant has concluded it is desirable and beneficial that the Action be fully and finally settled and terminated in the manner and upon the terms and conditions set forth in this Agreement.

1.23 **WHEREAS**, this Agreement is a compromise, and the Agreement, any related documents, and any negotiations resulting in it shall not be construed as or deemed to be evidence of or an admission or concession of liability or wrongdoing on the part of Defendant, or any of the Released Parties (defined below), with respect to any claim of any fault or liability or wrongdoing or damage whatsoever or with respect to the certifiability of a litigation class.

1.24 **WHEREAS**, this Agreement is intended by the Parties to fully, finally and forever resolve, discharge, and settle the Released Claims (as defined herein), upon and subject to the terms and conditions of this Agreement.

**NOW, THEREFORE, IT IS HEREBY STIPULATED AND AGREED** by and among Plaintiffs, the Settlement Class, and each of them, and Defendant, by and through its undersigned counsel that, subject to final approval of the Court after preliminary approval as provided for in this Settlement Agreement, in consideration of the benefits flowing to the Parties from the Agreement set forth herein, that the Action and the Released Claims shall be finally and

fully compromised, settled, and released, and the Action shall be dismissed with prejudice, upon and subject to the terms and conditions of this Agreement.

## **II. DEFINITIONS**

As used in this Settlement Agreement, the following capitalized terms have the meanings specified below. Unless otherwise indicated, defined terms include the plural as well as the singular.

2.1 “Action” means the class action lawsuit titled *Steven Doval, et al., v. Fairleigh Dickinson University*, Docket No. BER-L-004966-20, pending in the Superior Court of New Jersey, Law Division, Bergen County.

2.2 “Alternate Judgment” means a form of final judgment that may be entered by the Court herein but in a form other than the form of Judgment provided for in this Agreement and where none of the Parties elects to terminate this Settlement by reason of such variance.

2.3 “Approved Claim” means a Claim Form submitted by a Settlement Class Member (defined below) that: (a) is submitted timely and in accordance with the directions on the Claim Form and the provisions of the Settlement Agreement; (b) is fully and truthfully completed by a Settlement Class Member with all of the information requested in the Claim Form; (c) is signed by the Settlement Class Member, physically or electronically; and (d) is approved by the Settlement Administrator pursuant to the provisions of this Agreement.

2.4 “Cash Award(s)” means the pro rata portion of cash compensation in an amount up to \$155.00 payable by the Settlement Administrator from funds provided by Defendant, that each Settlement Class Member who has timely submitted a claim and has not opted-out of the Settlement shall be entitled to receive.

2.5 “Claimant” means any Class Member who seeks a Cash Award payment by submitting a Claim Form pursuant to this Settlement Agreement.

2.6 “Claim Form” means the document substantially in the form attached hereto as Exhibit A, to be completed and submitted by Settlement Class Members who wish to file a claim seeking to recover the Cash Award described in this Settlement Agreement. The Claim Form, which shall be available in electronic and paper format in the manner described below, may be modified by the Court in the Preliminary Approval Order, or to meet the requirements of the Settlement Administrator.

2.7 “Claim Deadline” means the date by which all Claim Forms must be postmarked or received to be considered timely and shall be set as a date no later than forty-five (45) days after the Final Approval Hearing. The Claims Deadline shall be clearly set forth in the Preliminary Approval Order as well as in the Notice and the Claim Form.

2.8 “Class Counsel” means Philip L. Fraietta and Alec Leslie of Bursor & Fisher, P.A., Antonio Vozzolo of Vozzolo LLC, and Ronald A Marron of the Law Offices of Ronald A. Marron, APLC.

2.9 “Class Representatives” means the named Plaintiffs in this Action, Steven Doval, Melissa Cuello, and Ceana Cuello.

2.10 “Court” means the Superior Court of New Jersey, Law Division, Bergen County.

2.11 “Defendant” means FDU.

2.12 “Defendant’s Counsel” means Angelo A. Stio III of Troutman Pepper Hamilton Sanders, LLP.

2.13 “Effective Date” or means the date ten (10) business days after which all of the events and conditions specified in Paragraph 11.1 have been met and have occurred.

2.14 “Escrow Account” means the separate, interest-bearing escrow account to be established by the Settlement Administrator under terms acceptable to all Parties at a depository institution insured by the Federal Deposit Insurance Corporation. The Settlement Fund shall be

deposited by Defendant into the Escrow Account in accordance with the terms of this Agreement and the money in the Escrow Account shall be invested in the following types of accounts and/or instruments and no other: (i) demand deposit accounts and/or (ii) time deposit accounts and certificates of deposit, in either case with maturities of forty-five (45) days or less. The costs of establishing and maintaining the Escrow Account shall be paid from the Settlement Fund.

2.15 “Fee and Expense Award(s)” means the amount of attorneys’ fees and reimbursement of costs and expenses awarded by the Court to Class Counsel, which will be paid out of the Settlement Fund.

2.16 “Final” means one business day following the latest of the following events: (i) the date upon which the time expires for filing or noticing any appeal of the Court’s Final Judgment approving the Settlement Agreement; (ii) if there is an appeal or appeals, the date of completion, in a manner that finally affirms and leaves in place the Final Judgment without any material modification, of all proceedings arising out of the appeal or appeals (including, but not limited to, the expiration of all deadlines for motions for reconsideration or petitions for review and/or *certiorari*, all proceedings ordered on remand, and all proceedings arising out of any subsequent appeal or appeals following decisions on remand); or (iii) the date of final dismissal of any appeal or the final dismissal of any proceeding on *certiorari*.

2.17 “Final Approval Hearing” or “Fairness Hearing” means the hearing before the Court where the Parties will request the Final Judgment to be entered by the Court approving the Settlement Agreement, the Fee and Expense Award, and the Incentive Awards to the Class Representatives.

2.18 “Final Approval Order” means the Court order that approves this Settlement Agreement and makes such other final rulings as are contemplated by this Settlement Agreement.

2.19 “Final Judgment” means the Final Judgment and Order to be entered by the Court approving the Agreement after the Final Approval Hearing.

2.20 “Incentive Award(s)” means any payment to be made to the Class Representatives as set forth in this Settlement Agreement, subject to the approval of the Court, in recognition for the named Plaintiffs’ time and effort in prosecuting the Action and shall be paid out of the Settlement Fund.

2.21 “Notice” or “Class Notice” means the Court-approved form of notice of this proposed Settlement Agreement, which is to be sent to the Settlement Class substantially in the manner set forth in this Agreement<sup>2</sup>, which is consistent with the requirements of New Jersey Court Rule 4:32-2(e)(1)(B) and due process, and is substantially in the forms attached hereto as Exhibits “B”, “C”, and “D,” informing them of, among other things, the (i) preliminary approval of the Settlement; (ii) scheduling of the Final Approval Hearing; (iii) opportunity to submit a claim; (iv) opportunity to submit an objection; and (v) opportunity to request exclusion.

2.22 “Notice Date” means the date by which the Notice set forth in Paragraph 5.1 is complete, which shall be no later than twenty-eight (28) days after Preliminary Approval.

2.23 “Objection” is the written communication that a Settlement Class Member may file with the Court in order to object to this Settlement Agreement as provided for in § VI of this Settlement Agreement.

2.24 “Objection/Exclusion Deadline” means the date by which a written objection to this Settlement Agreement or a request for exclusion submitted by a Person within the Settlement Class must be made, which shall be designated as a date no later than sixty (60) calendar days after the Notice Date and no sooner than fourteen (14) calendar days after papers supporting the

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<sup>2</sup> Notice, however, may be modified as necessary to comply with the provisions of any order of Preliminary Approval entered by the Court.



Fee and Expense Award are filed with the Court and posted to the settlement website listed in Paragraph 5.1(d), or such other date as ordered by the Court.

2.25 “Out-of-Pocket Tuition and Fees” means (1) the total amount of tuition and fees paid to FDU by or on behalf of a Settlement Class Member, discounted by any reduction in tuition, and (2) minus any unpaid balances related to the Spring 2020 term as reflected on the Settlement Class Member’s account with FDU. Out-of-Pocket Tuition and Fees does not include any payments for parking and/or room and board, including meal plans that were paid to FDU during the Spring 2020 Semester.

2.26 “Parties” means the Plaintiffs and Defendant.

2.27 “Person” means, without limitation, any individual, corporation, partnership, limited partnership, limited liability company, association, joint stock company, estate, legal representative, trust, unincorporated association, government or any political subdivision or agency thereof, and any business or legal entity and their spouses, heirs, affiliates, parents, predecessors, successors, representatives, or assigns, subsidiaries, insurers, and their past, present and future directors, officers, shareholders, members, faculty, employees, agents, and attorneys both individually and in their capacities as directors, officers, shareholders, members, employees, agents, and attorneys. “Person” is not intended to include any governmental agencies or governmental actors, including, without limitation, any state Attorney General office.

2.28 “Plaintiffs” means Steven Doval, Melissa Cuello, and Ceana Cuello, and the Settlement Class Members.

2.29 “Preliminary Approval” means the Court has entered an order certifying the Settlement Class for settlement purposes, preliminarily approving the terms and conditions of this Settlement Agreement, including the manner of providing and content of Notice to Settlement Class Members.

2.30 “Preliminary Approval Order” means the Court’s Order preliminarily approving the Settlement Agreement, certifying the Settlement Class for settlement purposes, and approving the Settlement Notice Plan.

2.31 “Released Claims” means any and all actual, potential, filed, known or unknown, fixed or contingent, claimed or unclaimed, suspected or unsuspected, claims, demands, charges, complaints, liabilities, rights, causes of action, suits, obligations, liens, judgments, contracts or agreements, extra contractual claims, damages, punitive, exemplary or multiplied damages, injunctive relief, declaratory relief, equitable relief, expenses, costs, attorneys’ fees and or obligations (including “Unknown Claims,” as defined below), and all other legal responsibilities in any form or nature, whether in law or in equity, accrued or un-accrued, direct, individual or representative, of every nature and description whatsoever, whether based on state, local or federal statute, ordinance, regulation, or claim at common law or in equity, or any other law, rule or regulation, whether past, present or future, known or unknown, asserted or unasserted, against the Released Parties, including but not limited to, any of them, arising out of any facts, transactions, events, matters, occurrences, acts, disclosures, statements, representations, omissions, claims, liabilities, or failures to act regarding FDU’s actions or decisions in respect to the Spring 2020 academic term, including ceasing physically in-person, on-campus education and services and transitioning to a remote format for the Spring 2020 academic term, including but not limited to all claims that were brought or could have been brought in the Action relating to any and all Releasing Parties.

2.32 “Released Parties” means Defendant, FDU, as well as any and all of its respective current, former, and future heirs, executors, estates, administrators, predecessors, successors, assigns, parent companies, subsidiaries, licensors, licensees, associates, affiliates, divisions, related corporate entities, employers, agents, consultants, independent contractors, insurers, and

all of their respective current, future, and former employees, directors, trustees, faculty, staff, administrators, board members, managing directors, officers, partners, principals, members, attorneys, accountants, financial and other advisors, insurers, underwriters, shareholders, lenders, auditors, investment advisors, legal representatives, successors in interest, assigns and companies, firms, agents, executors, trusts, corporations, customers, and all third party service providers or entities identified as FDU's agents and/or independent contractors in this Action.

2.33 "Releasing Parties" means Plaintiffs, those Settlement Class Members who do not timely opt out of the Settlement Class, and all of their respective present or past heirs, executors, family members, lenders, funders, payors, estates, administrators, predecessors, successors, assigns, parent companies, subsidiaries, associates, affiliates, employers, employees, agents, consultants, independent contractors, insurers, directors, managing directors, officers, partners, principals, members, attorneys, accountants, financial and other advisors, underwriters, shareholders, lenders, auditors, investment advisors, legal representatives, successors in interest, assigns and companies, firms, trusts, limited liability companies, partnerships and corporations.

2.34 "Request for Exclusion" means the written communication that must be sent to the Settlement Administrator and postmarked on or before the Objection/Exclusion Deadline by a Settlement Class Member who wishes to be excluded from the Settlement Class.

2.35 "Settlement Administration Expenses" means the expenses incurred by the Settlement Administrator in providing Notice, responding to inquiries from members of the Settlement Class, receiving information, mailing checks, and related services, paying taxes and tax expenses related to the Settlement Fund (including all federal, state or local taxes of any kind and interest or penalties thereon, as well as expenses incurred in connection with determining the amount of and paying any taxes owed and expenses related to any tax attorneys and accountants).

2.36 “Settlement Administrator” means RG/2 Claims Administration, LLC, or such other reputable administration company that has been selected by Plaintiffs and is reasonably acceptable to Defendant, and approved by the Court to perform the duties set forth in this Agreement, including but not limited to serving as escrow agent for the Settlement Fund, overseeing the distribution of Notice, handling all approved payments out of the Settlement Fund, and handling the determination, payment and filing of forms related to all federal, state and/or local taxes of any kind (including any interest or penalties thereon) that may be owed on any income earned by the Settlement Fund. Class Counsel’s assent to this Agreement shall constitute consent on behalf of each and every member of the Settlement Class as defined herein to disclose to Class Counsel and the Settlement Administrator all information required by the Settlement Administrator to perform the duties and functions ascribed to it herein, consistent with the written consent provisions of the Federal Educational Rights and Privacy Act, 20 U.S.C. § 1232g.

2.37 “Settlement Class Members,” “Class Members,” “Class,” or “Settlement Class” means all people who paid Defendant Spring 2020 Semester tuition and fees or who benefitted from the payment, and whose tuition and fees have not been refunded. Excluded from the Settlement Class will be: (a) all students who were enrolled entirely in an on-line program during the Spring 2020 Semester, (b) all students whose gift, aid (not including loans) or scholarships, regardless of source, equaled or exceeded the cost of tuition and fees for the Spring 2020 Semester, (c) persons who timely and properly exclude themselves from the Class as provided herein, and (d) the Court, the Court’s immediate family, and Court staff.

2.38 “Settlement Fund” means the fund that shall be established by or on behalf of Defendant in the total amount of up to one million five hundred thousand dollars (\$1,500,000.00 USD) to be deposited into the Escrow Account, according to the schedule set forth herein, plus

all interest earned thereon. From the Settlement Fund, the Settlement Administrator shall pay all Cash Awards to Settlement Class Members, Settlement Administration Expenses, any Incentive Awards to the Class Representatives, any Fee and Expense Award to Class Counsel, and any other costs, fees or expenses approved by the Court. The Settlement Fund shall be kept in the Escrow Account with permissions granted to the Settlement Administrator to access said funds until such time as the listed payments are made. The Settlement Fund includes all interest that shall accrue on the sums deposited in the Escrow Account. The Settlement Administrator shall be responsible for all tax filings with respect to any earnings on the Settlement Fund and the payment of all taxes that may be due on such earnings. The Settlement Fund shall be used to satisfy Defendant's monetary obligations under this Agreement. The payment of the sums into the Settlement Fund by Defendant fully discharges the Defendant and the other Released Parties' financial obligations (if any) in connection with the Settlement, meaning that no Released Party shall have any other obligation to make any payment into the Escrow Account or to any Class Member, or any other Person, under this Agreement. In no event shall the total monetary obligation with respect to this Agreement on behalf of Defendant exceed one million five hundred thousand dollars (\$1,500,000.00 USD).

2.39 "Settlement Notice Plan" or "Notice Plan" means the Settlement Administrator's plan to disseminate Class Notice to Settlement Class Members, as described in § V below.

2.40 "Settlement Website" means a website operated and maintained by the Settlement Administrator solely for purposes of making available to the Settlement Class Members the Class Notice, documents, information, and online claims submission process referenced in § V, below.

2.41 "Spring 2020 Semester" means the Spring 2020 academic semester at FDU, which commenced on or about January 4, 2020, and concluded on May 18, 2020.

2.42 “Unknown Claims” means claims that could have been raised in the Action and that any or all of the Releasing Parties do not know or suspect to exist, which, if known by him or her, might affect his or her agreement to release the Released Parties or the Released Claims or might affect his or her decision to agree, object or not to object to the Settlement. Upon the Effective Date, the Releasing Parties shall be deemed to have, and shall have, expressly waived and relinquished, to the fullest extent permitted by law, the provisions, rights and benefits of § 1542 of the California Civil Code, which provides as follows:

A GENERAL RELEASE DOES NOT EXTEND TO CLAIMS WHICH THE CREDITOR DOES NOT KNOW OR SUSPECT TO EXIST IN HIS OR HER FAVOR AT THE TIME OF EXECUTING THE RELEASE, WHICH IF KNOWN BY HIM OR HER MUST HAVE MATERIALLY AFFECTED HIS OR HER SETTLEMENT WITH THE DEBTOR.

Upon the Effective Date, the Releasing Parties also shall be deemed to have, and shall have, waived any and all provisions, rights and benefits conferred by any law of any state or territory of the United States, or principle of common law, or the law of any jurisdiction outside of the United States, which is similar, comparable or equivalent to § 1542 of the California Civil Code. The Releasing Parties acknowledge that they may discover facts in addition to or different from those that they now know or believe to be true with respect to the subject matter of this release, but that it is their intention to finally and forever settle and release the Released Claims, notwithstanding any Unknown Claims they may have, as that term is defined in this Paragraph.

### **III. SETTLEMENT CONSIDERATION AND RELIEF**

3.1 **Payments to Settlement Class Members.** In full, complete, and final settlement and satisfaction of the Action and all Released Claims, and subject to all of the terms, conditions, and provisions of this Settlement Agreement, FDU agrees to provide the following consideration to Settlement Class Members who submit a valid and timely Claim Form to the Settlement Administrator:

(a) Defendant shall within thirty (30) days following the date of Final Judgment pay or cause to be paid into the Escrow Account the amount of the Settlement Fund (up to \$1,500,000.00), specified in Paragraph 2.38 of this Agreement less: (i) any amounts previously invoiced and paid to the Settlement Administrator in accordance with §§ V and VII.

(b) The Settlement Fund shall be applied to pay in full and in order: (i) any necessary taxes and tax expenses; (ii) all other Settlement Administration Expenses, including costs of providing notice to the Class Members and processing claims; (iii) any Fee and Expense Award made by the Court to Class Counsel; (iv) any class representative Incentive Awards approved by the Court to the Class Representatives; and (v) payments to Claimants who have filed a valid claim and any others as allowed by this Agreement and to be approved by the Court.

(c) Each Settlement Class Member seeking to receive a payment from the Settlement Fund in a pro rata amount not to exceed a total of \$155.00 per student in attendance, shall complete and submit a Claim Form to the Settlement Administrator on or before the Claims Deadline. The Claim Form shall require the Settlement Class Member to state the Settlement Class Member's name, affirm that the Settlement Class Member paid Defendant Out-Of-Pocket Tuition and Fees (that is, payments to Defendant exclusive of gift aid (not including loans), regardless of source) an amount up to \$155.00, and affirm that either (i) no other individual paid tuition and fees on the Settlement Class Members behalf during the Spring 2020 Semester for which reimbursement is being sought; or (ii) no other Settlement Class Member will submit a claim relating to the specific student in attendance. The Settlement Class Member shall verify the information on the Claim Form with a statement that the information is true and correct to the best of the Settlement Class Member's information, knowledge, and belief.

(d) Payments to all Settlement Class Members who submit a valid, timely Claim Form shall be made within fifty (50) days after the Effective Date.

(e) All Cash Awards issued to Settlement Class Members via check will state on the face of the check that funds not cashed within one hundred eighty (180) days after the date of issuance shall revert to the Defendant and be used for scholarships for the benefit of students in financial need, as a *cy pres*. Checks shall be sent to Defendant's last known or available address of record for each Class Member (or any updated address identified by the Settlement Administrator in connection with issuing Notice) and shall be valid for one hundred eighty (180) days. In the event that the Settlement Fund is not exhausted by submitted Claims or Cash Awards, Settlement Administration Expenses, Fee and Expense Awards, and Incentive Awards, the remainder of the Settlement Fund shall revert to Defendant and be used for scholarships to benefit students in need, as a *cy pres*.

(f) Plaintiffs understand and agree that Plaintiffs and Settlement Class Members would not receive the monies and/or benefits specified in this Agreement, except for Plaintiffs' execution of this Agreement and the fulfillment of the promises contained herein.

#### **IV. RELEASE**

4.1 The obligations incurred pursuant to this Settlement Agreement shall be a full and final disposition of the Action and any and all Released Claims, as against all Released Parties.

4.2 Upon the Effective Date, the Releasing Parties, and each of them, shall be deemed to have, and by operation of the Final Judgment shall have, fully, finally, and forever released, relinquished, and discharged all Released Claims against the Released Parties, and each of them.

#### **V. NOTICE TO THE CLASS**

5.1 The Notice Plan shall consist of the following:

(a) *Settlement Class List*. No later than twenty-eight (28) calendar days from the execution of this Settlement Agreement, Defendant shall produce an electronic list from its records that includes the names, last known U.S. Mail addresses, and email addresses, to the



extent available, belonging to Persons within the Settlement Class. This electronic document shall be called the "Class List," and shall be provided to the Settlement Administrator for the purpose of giving notice to the Settlement Class Members and shall not be used for any other purpose. No later than five (5) business days after the Objection/Exclusion Deadline, Defendant will provide to the Settlement Administrator a list of the total amount of Out-of-Pocket Tuition and Fees paid by or on behalf of each Settlement Class Member for the Spring 2020 Semester.

(b) *Direct Notice via Email.* No later than twenty-one (21) calendar days from entry of the Preliminary Approval Order, the Settlement Administrator shall send Notice via email substantially in the form attached as Exhibit B to all Settlement Class Members for whom a valid email address is in the Class List. An additional e-mail will be sent within 30 days of the initial e-mail notice. To ensure a high degree of deliverability of the email notice and to avoid spam filters, the Claims Administrator must utilize industry-recognized best practices and comply with the Can-Spam Act. The Email Notice shall have a hyperlink that Class Member recipients may click and be taken to a landing page on the Settlement Website, prepopulated with Class Member data, if practicable. In the event transmission of email notice results in any "bounce-backs," the Settlement Administrator shall, if possible, correct any issues that may have caused the "bounce-back" to occur and make a second attempt to re-send the email notice.

(c) *Direct Notice via U.S. Mail.* No later than the twenty-eight (28) calendar days from entry of the Preliminary Approval Order, the Settlement Administrator shall send notice substantially in the form attached as Exhibit C via First Class U.S. Mail to all Settlement Class Members who did not receive an email pursuant to Paragraph 5.1(b), above. In addition to the notice required by the Court, the Parties may jointly agree to provide additional notice to the members of the Settlement Class. For any Notice that is returned by the Postal Service as undeliverable, the Settlement Administrator shall re-mail the notice to the forwarding address, if

any, provided by the Postal Service or—if no forwarding address is provided on the returned mail—shall re-mail the notice after performing a “skip trace.”

(d) *Settlement Website.* Within ten (10) business days from entry of the Preliminary Approval Order, the Settlement Administrator shall establish and maintain a Settlement Website, that shall provide Settlement Class Members with the ability to update their mailing addresses and will: (i) notify the Settlement Class of their rights to opt out or exclude themselves from the Settlement Class; (ii) notify the Settlement Class of their right to object to this Agreement; (iii) notify the Settlement Class that no further notice will be provided to them that the Settlement has been approved; (iv) inform the Settlement Class that they should monitor the Settlement Website for further developments; (v) inform the Settlement Class of their right to attend the Final Approval Hearing conducted by the Court; (vi) include any required notice of any motion(s) made by Class Counsel for any Attorneys’ Fee and Expense Award or Incentive Awards (when available); (vii) include a copy of this Agreement, the Preliminary Approval Order, the Claim Form, and the Notice substantially in the form attached hereto as Exhibit D; (viii) include copies of the material documents that are filed publicly with the Court in connection with the Settlement or any other pertinent case documents; (ix) state the means by which Settlement Class Members may communicate with the Claims Administrator (including but not limited to the Claims Administrator’s business name, address, a toll-free telephone number, and e-mail address); (x) contain a set of Frequently Asked Questions and corresponding answers, (xi) provide instructions on how to submit a Claim Form (both electronically and by mail); and (xi) include any other information or materials that may be required by the Court and/or agreed to by the Parties. The Claims Administrator shall secure a URL for the Settlement Website selected and approved by the Parties. The Settlement Website shall remain active for 90 calendar days after the Settlement Effective Date.

(e) *Toll-Free Interactive Voice Response (“IVR”)*. On or before the Notice Date, the Settlement Administrator shall establish a Toll-Free IVR phone number with script recordings of information about this Settlement, including information about the Claim Form, utilizing the relevant portions of the language contained in the Notice and Claim Form. The phone number shall remain open and accessible through the Claim Deadline. The Settlement Administrator shall make reasonable provision for Class Counsel to be promptly advised of recorded messages left on the phone number by potential Settlement Class Members concerning the Action and/or this Settlement, so that Class Counsel may timely and accurately respond to such inquiries; provided however, the Settlement Administrator shall review the recorded messages before providing them to Class Counsel, and if one or more of the messages requests a blank Claim Form or other similar administrative assistance only, then the Settlement Administrator shall handle such administrative request(s), but the Settlement Administrator shall provide all other messages to Class Counsel for any further response to the Settlement Class Member.

5.2 The Notice shall advise the Settlement Class of their rights, including the right to be excluded from, comment upon, and/or object to the Settlement Agreement or any of its terms. The Notice shall also advise the Settlement Class of their ability to seek to quash the ordered disclosure of their Out-of-Pocket Tuition and Fees to the Settlement Administrator. The Notice shall specify that any objection to the Settlement Agreement, and any papers submitted in support of said objection, shall be considered by the Court at the Final Approval Hearing only if, on or before the Objection/Exclusion Deadline approved by the Court and specified in the Notice, the Person making the objection files notice of an intention to do so and at the same time (a) files copies of such papers he or she proposes to be submitted at the Final Approval Hearing with the Clerk of the Court, or alternatively, if the objection is from a Class Member represented by counsel, files any objection through the Court’s electronic filing

system, and (b) sends copies of such papers by mail, hand, or overnight delivery service to the Settlement Administrator, with copies to Class Counsel and Defendant's Counsel.

## **VI. EXCLUSIONS AND OBJECTIONS**

6.1 Class Members shall have the right to object to the Court's granting final approval to this Agreement. To be considered, any objection must be made in writing, must be filed with the Court, must be mailed or delivered to the Settlement Administrator at the address provided in the Notice, with copies to Class Counsel and Defense Counsel, received no later than the Objection/Exclusion Deadline, and must include the following: (i) the name of the Action; (ii) the objector's full name, address and telephone number; (iii) the basis upon which the objector claims to be a Class Member (iv) a written statement of all legal and factual grounds for the objection, including copies of any documents relied upon; (v) the name and contact information of any and all attorneys representing, advising, or in any way assisting the objector in connection with the objection ("Objecting Attorneys"); (vi) a statement confirming whether the objector intends to personally appear and/or testify at the Final Approval Hearing; (vii) the identity of any counsel who will appear at the Final Approval Hearing on the objector's behalf; (viii) a list of any witnesses the objector wishes to call to testify, or any documents or exhibits the objector or the objector's counsel may use, at the Final Approval Hearing; (ix) the number of class actions in which the objector or his or her counsel have filed an objection in the last five (5) years; and (x) the objector's signature. If a Settlement Class Member or any of the Objecting Attorneys has objected to any class action settlement where the objector or the Objecting Attorneys asked for or received any payment in exchange for dismissal of the objection, or any related appeal, without any modification to the settlement, then the objection must include a statement identifying each such case by full case caption and amount of payment received. Any Class Member who fails to file a timely written objection and notice of his or her

intent to appear at the Final Approval Hearing pursuant to this Paragraph (6.1) or as detailed in the Notice shall not be permitted to object to the Settlement at the Final Approval Hearing and shall be foreclosed from seeking any review of the Settlement by appeal or other means.

6.2 Any Party shall have the right to respond to any objection by filing a response with the Court and serving a copy on the objector (or counsel for the objector) and counsel for the other Parties no later than three (3) days before the Fairness Hearing.

6.3 A Settlement Class Member may request to be excluded from the Settlement Class by sending a written request postmarked on or before the Objection/Exclusion Deadline approved by the Court and specified in the Notice. To exercise the right to be excluded, a Person in the Settlement Class must timely send a written request for exclusion to the Settlement Administrator providing their name and address, a signature, the name and number of the case, and a statement that they wish to be excluded from the Settlement Class for purposes of this Settlement. A request to be excluded that does not include all of this information, or that is sent to an address other than that designated in the Notice, or that is not postmarked within the time specified, shall be invalid, and the Person(s) serving such a request shall be a member(s) of the Settlement Class and shall be bound as a Settlement Class Member by this Agreement, if approved. Any member of the Settlement Class who validly elects to be excluded from this Agreement shall not: (i) be bound by any orders or the Final Judgment; (ii) be entitled to relief under this Settlement Agreement; (iii) gain any rights by virtue of this Agreement; or (iv) be entitled to object to any aspect of this Agreement. The request for exclusion must be personally signed by each Person requesting exclusion. So-called “mass” or “class” opt-outs shall not be allowed. To be valid, a request for exclusion must be postmarked or received by the date specified in the Notice.

6.4 Within five (5) business days after the Objection/Exclusion Deadline, the Settlement Administrator shall provide to Defense Counsel and Class Counsel a list of all Persons who opted out by requesting exclusion pursuant to § VI. Any Party shall have the right to challenge the timeliness and validity of any request for exclusion. The Court shall determine whether any contested request is timely and valid.

6.5 The Final Approval Hearing shall be no earlier than ninety (90) calendar days after the Notice Plan described in Paragraph 5.1 is provided.

6.6 Any Settlement Class Member who does not, in accordance with the terms and conditions of this Agreement, seek exclusion from the Settlement Class will be bound by all of the terms of this Agreement, including the terms of the Final Judgment to be entered in the Action and the Releases provided for in the Agreement, and will be barred from bringing any action against any of the Released Parties concerning the Released Claims.

## **VII. SETTLEMENT ADMINISTRATION**

7.1 The Settlement Administrator shall, under the supervision of the Court, administer the relief provided by this Settlement Agreement in a rational, responsive, cost effective, and timely manner. The Settlement Administrator shall maintain reasonably detailed records of its activities under this Agreement. The Settlement Administrator shall maintain all such records as are required by applicable law in accordance with its normal business practices and such records will be made available to Class Counsel and Defendant's Counsel upon request. The Settlement Administrator shall also provide reports and other information to the Court as the Court may require. The Settlement Administrator shall provide Class Counsel and Defendant's Counsel with regular reports at weekly intervals containing information concerning Notice, administration, and implementation of the Settlement Agreement. Should the Court request, the Parties shall submit a timely report to the Court summarizing the work performed by the

Settlement Administrator, including a report of all amounts from the Settlement Fund paid to Settlement Class Members. Without limiting the foregoing, the Settlement Administrator shall:

- (a) Forward to Defendant's Counsel, with copies to Class Counsel, all original documents and other materials received in connection with the administration of the Settlement, and all copies thereof, within thirty (30) days after the Objection/Exclusion Deadline;
- (b) Provide Class Counsel and Defendant's Counsel with drafts of all administration related documents, including but not limited to Notices, follow-up class notices or communications with Settlement Class Members, telephone scripts, website postings or language or other communications with the Settlement Class, at least five (5) business days before the Settlement Administrator is required to or intends to publish or use such communications, unless Class Counsel and Defendant's Counsel agree to waive this requirement in writing on a case by case basis; and
- (c) Receive requests to be excluded from the Settlement Class and other requests and promptly provide to Class Counsel and Defendant's Counsel copies thereof. If the Settlement Administrator receives any exclusion forms or other requests after the deadline for the submission of such forms and requests, the Settlement Administrator shall promptly provide copies thereof to Class Counsel and Defendant's Counsel.

7.2 In the exercise of its duties outlined in this Agreement, the Settlement Administrator shall have the right to reasonably request additional information from Class Counsel or any Settlement Class Member.

7.3 Defendant, the Released Parties, and Defendant's Counsel shall have no responsibility for, interest in, or liability whatsoever with respect to: (i) any act, omission, or determination by Class Counsel, or the Settlement Administrator, or any of their respective designees or agents, in connection with the administration of the Settlement or otherwise; (ii) the

management, investment, or distribution of the Settlement Fund; (iii) the allocation of Settlement Funds to Settlement Class Members or the implementation, administration, or interpretation thereof; (iv) the determination, administration, calculation, or payment of any claims asserted against the Settlement Fund; (v) any losses suffered by, or fluctuations in value of, the Settlement Fund; or (vi) the payment or withholding of any taxes, tax expenses, or costs incurred in connection with the taxation of the Settlement Fund or the filing of any federal, state, or local returns.

7.4 All taxes and tax expenses shall be paid out of the Settlement Fund, and shall be timely paid by the Settlement Administrator pursuant to this Agreement and without further order of the Court. Any tax returns prepared for the Settlement Fund (as well as the election set forth therein) shall be consistent with this Agreement and in all events shall reflect that all taxes on the income earned by the Settlement Fund shall be paid out of the Settlement Fund as provided herein. The Released Parties shall have no responsibility or liability for the acts or omissions of the Settlement Administrator or its agents with respect to the payment of taxes or tax expenses.

7.5 The Settlement Administrator shall protect the privacy of any personally identifiable information it receives in the course of administering the duties provided by this Agreement, and it shall comply with all laws regarding data privacy protection and data security.

7.6 All disputes relating to the Settlement Administrator's ability and need to perform its duties shall be referred to the Court, if necessary, which will have continuing jurisdiction over the terms and conditions of this Agreement, until all payments and obligations contemplated by the Agreement have been fully carried out.



## **VIII. TERMINATION OF SETTLEMENT**

8.1 Subject to Paragraphs 11.1-11.3 below, Defendant or the Class Representatives on behalf of the Settlement Class, shall have the right to terminate this Agreement by providing written notice of the election to do so (“Termination Notice”) to all other Parties hereto within twenty-one (21) days of any of the following events: (i) the Court’s refusal to grant Preliminary Approval of this Agreement in any material respect<sup>3</sup>; (ii) the Court’s refusal to grant final approval of this Agreement in any material respect; (iii) the Court’s refusal to enter the Final Judgment in this Action in any material respect; (iv) the date upon which the Final Judgment is modified or reversed in any material respect by the Appellate Division or the Supreme Court of New Jersey; or (v) the date upon which an Alternate Judgment, as defined in Paragraphs 2.2 and 11.1(d) of this Agreement is modified or reversed in any material respect by the Court of Appeals or the Supreme Court.

8.2 If more than three hundred (300) members of the Settlement Class opt out or request exclusion from the Settlement Class in accordance with Paragraph 6.3, Defendant shall have the option, in its sole discretion, to void this Agreement by providing written notice of the election to do so (“Opt Out Termination Notice”) to all other Parties hereto within twenty-one (21) days of the Objection/Exclusion Deadline.

8.3 Defendant shall bear all reasonable and necessary costs incurred in connection with the implementation of this Class Action Settlement Agreement up until its termination. Neither the Class Representatives nor Class Counsel shall be responsible for any such settlement-related costs.

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<sup>3</sup> Without limitation any alteration to the following provisions would be considered material: Sections 2.31, 2.32, 2.33, 2.38, 3.1, 4.1, 4.2, 6.3, 8.1, and 8.2.

8.4 In the event that this Agreement is not approved by the Court or the settlement set forth in this Stipulation is terminated or fails to become effective in accordance with its terms, any reasonable costs associated with the Class Action Settlement Administrator or administration incurred prior to that time will be paid by FDU.

**IX. CERTIFICATION OF THE SETTLEMENT CLASS, PRELIMINARY APPROVAL ORDER, AND FINAL APPROVAL ORDER**

9.1 The Parties agree, for settlement purposes only (and without any finding or admission of any wrongdoing or fault by Defendant) that the Settlement Class shall be certified and proceed as a class action under New Jersey Court Rule 4:32, with a class consisting of all Settlement Class Members, and with Plaintiffs as Class Representatives and with Class Counsel as counsel for the Settlement Class Members.

9.2 The Parties acknowledge that (a) any certification of the Settlement Class as set forth in this Agreement, including certification of the Settlement Class for settlement purposes in the context of Preliminary Approval, shall not be deemed a concession that certification of a litigation class is appropriate, or that the Settlement Class definition would be appropriate for a litigation class, nor would Defendant be precluded from challenging class certification in further proceedings in the Action or in any other action if the Settlement Agreement is not finalized or finally approved; (b) if the Settlement Agreement is not finally approved by the Court for any reason whatsoever, then any certification of the Settlement Class will be void, the Parties and the Action shall be restored to the status quo ante, and no doctrine of waiver, estoppel or preclusion will be asserted in any litigated certification proceedings in the Action or in any other action; and (c) no agreements made by or entered into by Defendant in connection with the Settlement may be used by Plaintiffs, any person in the Settlement Class, or any other person to establish any of

the elements of class certification in any litigated certification proceedings, whether in the Action or any other judicial proceeding.

9.3 Promptly after the execution of this Settlement Agreement, Class Counsel shall submit this Agreement together with its Exhibits to the Court and shall move the Court for Preliminary Approval of the settlement set forth in this Agreement; certification of the Settlement Class for settlement purposes only; appointment of Class Counsel and the Class Representatives; and entry of a Preliminary Approval Order, which order shall set a Final Approval Hearing date and approve the Notice for dissemination substantially in the form of Exhibits B, C, and D hereto. The Preliminary Approval Order shall also authorize the Parties, without further approval from the Court, to agree to and adopt such amendments, modifications and expansions of the Settlement Agreement and its implementing documents (including all exhibits to this Agreement) so long as they are consistent in all material respects with the terms of the Settlement Agreement and do not limit or impair the rights of the Settlement Class or materially expand the obligations of Defendant.

9.4 At the time of the submission of this Agreement to the Court as described above, Class Counsel shall request that, after Notice is given, the Court hold a Final Approval Hearing and approve the settlement of the Action as set forth herein.

9.5 After Notice is given, the Parties shall request and seek to obtain from the Court a Final Judgment, which will (among other things):

(a) find that the Court has personal jurisdiction over all Settlement Class Members and that the Court has subject matter jurisdiction to approve the Agreement, including all exhibits thereto;

(b) approve the Settlement Agreement and the proposed settlement as fair, reasonable, and adequate as to, and in the best interests of, the Settlement Class Members, for

purposes of New Jersey Court Rule 4:32-2(e)(1)(C); direct the Parties and their counsel to implement and consummate the Agreement according to its terms and provisions; and declare the Agreement to be binding on, and have *res judicata* and preclusive effect in all pending and future lawsuits or other proceedings maintained by or on behalf of Plaintiffs and Releasing Parties;

(c) find that the Notice implemented pursuant to the Agreement (1) constitutes the best practicable notice under the circumstances; (2) constitutes notice that is reasonably calculated, under the circumstances, to apprise the Settlement Class of the pendency of the Action, their right to object to or exclude themselves from the proposed Agreement, and to appear at the Final Approval Hearing; (3) is reasonable and constitutes due, adequate, and sufficient notice to all persons entitled to receive notice; and (4) complied with all laws and applicable legal requirements, including but not limited to, New Jersey Court Rule 4:32-2(e)(1)(B) and due process;

(d) find that the Class Representatives and Class Counsel adequately represent the Settlement Class for purposes of entering into and implementing the Agreement;

(e) dismiss the Action (including all individual claims and Settlement Class Claims presented thereby) on the merits and with prejudice, without fees or costs to any party except as provided in the Settlement Agreement;

(f) incorporate the Release set forth above, make the Release effective as of the date of the Effective Date, and forever discharge the Released Parties as set forth herein;

(g) permanently bar and enjoin all Settlement Class Members who have not been properly excluded from the Settlement Class from filing, commencing, prosecuting, intervening in, or participating (as class members or otherwise) in any lawsuit or other action in any jurisdiction based on the Released Claims;

(h) without affecting the finality of the Final Judgment for purposes of appeal, retain jurisdiction as to all matters relating to administration, consummation, enforcement, and interpretation of the Settlement Agreement and the Final Judgment, and for any other necessary purpose; and

(i) incorporate any other provisions, as the Court deems necessary and just.

**X. CLASS COUNSEL'S ATTORNEYS' FEES AND REIMBURSEMENT OF EXPENSES; INCENTIVE AWARDS**

10.1 Defendant agrees that Class Counsel may apply for an award of attorneys' fees, costs, and expenses from the Settlement Fund not to exceed one-third (33.3%) of the Settlement Fund (or five hundred thousand dollars (\$500,000.00)). Payment of the Fee and Expense Award shall be made from the Settlement Fund and should the Court award less than the amount sought by Class Counsel, the difference in the amount sought and the amount ultimately awarded pursuant to this Paragraph shall remain in the Settlement Fund.

10.2 The Fee and Expense Award shall be payable by the Settlement Administrator within thirty (30) days after entry of the Court's Final Judgment, subject to Class Counsel each executing a stipulated Undertaking Regarding Attorneys' Fees and Costs (an "Undertaking") substantially in the form attached hereto as Exhibit E, and providing all payment routing information and tax I.D. numbers for Class Counsel. Each Undertaking shall be substantively identical to the stipulated undertaking approved by the Court in *Taylor v. Trusted Media Brands, Inc.*, S.D.N.Y., Case No. 16-cv-01812-KMK (Dkt. No. 70-1, Ex. E). Payment of the Fee and Expense Award shall be made from the Settlement Fund by wire transfer to Class Counsel, in accordance with wire instructions to be provided by Bursor & Fisher, P.A., and completion of necessary forms, including but not limited to W-9 forms. Notwithstanding the foregoing, if for any reason the Final Judgment is reversed or rendered void as a result of an appeal(s) then Class

Counsel shall return such funds to the Defendant. Additionally, should any parties to an Undertaking dissolve, merge, declare bankruptcy, become insolvent, or cease to exist prior to the final payment to Class Members, those parties shall execute a new undertaking guaranteeing repayment of funds within fourteen (14) calendar days of such an occurrence.

10.3 Defendant agrees that the Class Representatives may apply for an incentive award from the Settlement Fund, in addition to any settlement payment as a result of an Approved Claim pursuant to this Agreement, and in recognition of their efforts on behalf of the Settlement Class, in the amount of not more than five thousand dollars (\$5,000.00 USD) each. Should the Court award less than this amount, the difference in the amount sought and the amount ultimately awarded pursuant to this Paragraph shall remain in the Settlement Fund. Class Representatives understand and acknowledge that they may receive no monetary payment, and their agreement to the Settlement is not conditioned on the possibility of receiving monetary payment. Such award shall be paid from the Settlement Fund (in the form of a check to the Class Representatives that is sent care of Class Counsel), within five (5) business days after the Effective Date.

**XI. CONDITIONS OF SETTLEMENT, EFFECT OF DISAPPROVAL, CANCELLATION OR TERMINATION**

11.1 The Effective Date of this Settlement Agreement shall not occur unless and until each of the following events occurs and shall be (10) business days after the date upon which the last (in time) of the following events occurs:

- (a) The Parties and their counsel have executed this Agreement;
- (b) The Court has entered the Preliminary Approval Order;
- (c) The Court has entered the Final Approval Order and has entered the Final

Judgment, or a judgment consistent with this Agreement in all material respects; and

(d) The Final Judgment has become Final, as defined above, or, in the event that the Court enters an Alternate Judgment, such Alternate Judgment becomes Final.

11.2 If some or all of the conditions specified in Paragraph 11.1 are not met, or in the event that this Agreement is not approved by the Court, or the settlement set forth in this Agreement is terminated or fails to become effective in accordance with its terms, then this Settlement Agreement shall be canceled and terminated subject to Paragraph 8.1 unless Class Counsel and Defendant's Counsel mutually agree in writing to proceed with this Agreement. If any Party is in material breach of the terms hereof, any other Party, provided that it is in substantial compliance with the terms of this Agreement, may terminate this Agreement on notice to all of the Parties. Notwithstanding anything herein, the Parties agree that the Court's failure to approve, in whole or in part, the attorneys' fees payment to Class Counsel and/or the incentive award set forth in § X above shall not prevent the Agreement from becoming effective, nor shall it be grounds for termination.

11.3 If this Agreement is terminated or fails to become effective for the reasons set forth in Paragraphs 8.1-8.2 or 11.1-11.2 above, the Parties shall be restored to their respective positions in the Action as of the date of the signing of this Agreement. In such event, any Final Judgment or other order entered by the Court in accordance with the terms of this Agreement shall be treated as vacated, *nunc pro tunc*, and the Parties shall be returned to the *status quo ante* with respect to the Action as if this Agreement had never been entered into. Within five (5) business days after written notification of termination as provided in this Agreement is sent to the other Parties, the Settlement Fund (including accrued interest thereon), less any Settlement Administration costs actually incurred, paid or payable and less any taxes and tax expenses paid, due or owing, shall be refunded by the Settlement Administrator to Defendant, based upon written instructions provided by Defendant's Counsel. In the event that the Final Settlement

Order and Judgment or any part of it is vacated, overturned, reversed, or rendered void as a result of an appeal, or the Settlement Agreement is voided, rescinded, or otherwise terminated for any other reason, Class Counsel shall, within thirty (30) days repay to Defendant, based upon written instructions provided by Defendant's Counsel, the full amount of the attorneys' fees and costs paid to Class Counsel from the Settlement Fund, including any accrued interest. In the event the attorney fees and costs awarded by the Court or any part of them are vacated, modified, reversed, or rendered void as a result of an appeal, Class Counsel shall within thirty (30) days repay to Defendant, based upon written instructions provided by Defendant's Counsel, the attorneys' fees and costs paid to Class Counsel and/or Class Representatives from the Settlement Fund, in the amount vacated or modified, including any accrued interest.

11.4 Nothing shall prevent the Class Representatives and/or FDU from appealing or seeking other appropriate relief from an appellate court with respect to any denial by the Court of Final Approval of the Settlement.

## **XII. MISCELLANEOUS PROVISIONS.**

12.1 The Parties (a) acknowledge that it is their intent to consummate this Settlement Agreement; and (b) agree, subject to their fiduciary and other legal obligations, to cooperate to the extent reasonably necessary to effectuate and implement all terms and conditions of this Agreement, to exercise their reasonable best efforts to accomplish the foregoing terms and conditions of this Agreement, to secure final approval, and to defend the Final Judgment through any and all appeals. Class Counsel and Defendant's Counsel agree to cooperate with one another in seeking Court approval of the Settlement Agreement, entry of the Preliminary Approval Order, and the Final Judgment, and promptly to agree upon and execute all such other documentation as may be reasonably required to obtain final approval of the Agreement.



12.2 The Parties intend this Settlement Agreement to be a final and complete resolution of all disputes between them with respect to the Released Claims by Plaintiffs, the Settlement Class and each or any of them, on the one hand, against the Released Parties, and each or any of the Released Parties, on the other hand. Accordingly, the Parties agree not to assert in any forum that the Action was brought by Plaintiffs or defended by Defendant, or each or any of them, in bad faith or without a reasonable basis.

12.3 The Parties have relied upon the advice and representation of counsel, selected by them, concerning their respective legal liability for the claims hereby released. The Parties have read and understand fully the above and foregoing agreement and have been fully advised as to the legal effect thereof by counsel of their own selection and intend to be legally bound by the same.

12.4 Whether or not the Effective Date occurs or the Settlement Agreement is terminated, neither this Agreement nor the settlement contained herein or any term, provision or definition therein, nor any act or communication performed or document executed in the course of negotiating, implementing or seeking approval pursuant to or in furtherance of this Agreement or the settlement:

(a) is, may be deemed, or shall be used, offered or received in any civil, criminal or administrative proceeding in any court, administrative agency, arbitral proceeding or other tribunal against the Released Parties, or each or any of them, as an admission, concession or evidence of, the validity of any Released Claims, the truth of any fact alleged by the Plaintiffs, the deficiency of any defense that has been or could have been asserted in the Action, the violation of any law or statute, the definition or scope of any term or provision, the reasonableness of the settlement amount or the Fee and Expense Award, or of any alleged wrongdoing, liability, negligence, or fault of the Released Parties, or any of them. Defendant,

while continuing to deny all allegations of wrongdoing and disclaiming all liability with respect to all claims, considers it desirable to resolve the action on the terms stated herein to avoid further expense, inconvenience, and burden, and therefore has determined that this settlement on the terms set forth herein is in Defendant's best interests;

(b) is, may be deemed, or shall be used, offered or received against any Released Party, as an admission, concession or evidence of any fault, misrepresentation or omission with respect to any statement or written document approved or made by the Released Parties, or any of them;

(c) is, may be deemed, or shall be used, offered or received against the Released Parties, or each or any of them, as an admission or concession with respect to any liability, negligence, fault or wrongdoing as against any Released Parties, or supporting the certification of a litigation class, in any civil, criminal or administrative proceeding in any court, administrative agency or other tribunal. However, the settlement, this Agreement, and any acts performed and/or documents executed in furtherance of or pursuant to this Agreement and/or Settlement may be used in any proceedings as may be necessary to effectuate the provisions of this Agreement. Further, if this Settlement Agreement is approved by the Court, any Party or any of the Released Parties may file this Agreement and/or the Final Judgment in any action that may be brought against such Party or Parties in order to support a defense or counterclaim based on principles of *res judicata*, collateral estoppel, release, good faith settlement, judgment bar or reduction, or any other theory of claim preclusion or issue preclusion or similar defense or counterclaim;

(d) is, may be deemed, or shall be construed against Plaintiffs, the Settlement Class, the Releasing Parties, or each or any of them, or against the Released Parties, or each or any of them, as an admission or concession that the consideration to be given hereunder

represents an amount equal to, less than or greater than that amount that could have or would have been recovered after trial; and

(e) is, may be deemed, or shall be construed as or received in evidence as an admission or concession against Plaintiffs, the Settlement Class, the Releasing Parties, or each and any of them, or against the Released Parties, or each or any of them, that any of Plaintiffs' claims are with or without merit or that damages recoverable in the Action would have exceeded or would have been less than any particular amount.

12.5 No person or entity shall have any claim against the Class Representatives, Class Counsel, the Settlement Administrator or any other agent designated by Class Counsel, or the Released Parties and/or their counsel, arising from distributions made substantially in accordance with this Agreement. The Parties and their respective counsel, and all other Released Parties shall have no liability whatsoever for the investment or distribution of the Settlement Fund or the determination, administration, calculation, or payment of any claim or nonperformance of the Settlement Administrator, the payment or withholding of taxes (including interest and penalties) owed by the Settlement Fund, or any losses incurred in connection therewith.

12.6 The headings used herein are used for the purpose of convenience only and are not meant to have legal effect.

12.7 The waiver by one Party of any breach of this Agreement by any other Party shall not be deemed as a waiver of any other prior or subsequent breaches of this Agreement.

12.8 All of the Exhibits to this Agreement are material and integral parts thereof and are fully incorporated herein by this reference.

12.9 This Agreement and its Exhibits set forth the entire agreement and understanding of the Parties with respect to the matters set forth herein, and supersede all prior negotiations, agreements, arrangements and undertakings with respect to the matters set forth herein. No

representations, warranties or inducements have been made to any Party concerning this Settlement Agreement or its Exhibits other than the representations, warranties and covenants contained and memorialized in such documents. This Agreement may be amended or modified only by a written instrument signed by or on behalf of all Parties or their respective successors-in-interest. Amendments and modifications may be made without additional notice to the Settlement Class unless such notice is required by the Court.

12.10 Except as otherwise provided herein, each Party shall bear its own costs.

12.11 Plaintiffs represent and warrant that they have not assigned any claim or right or interest therein as against the Released Parties to any other Person or Party and that they are fully entitled to release the same. Plaintiffs further represent and warrant that they have not filed, caused to be filed, or presently are a party to any claim against Defendant, except the Action, which will be dismissed with Prejudice pursuant to the terms of this Agreement. Plaintiffs agree to seek approval of this Agreement and dismissal of this Action with prejudice in its entirety as outlined in this Agreement.

12.12 The Parties agree that any public statement related to the settlement shall be substantially in the form attached hereto as Exhibit F. Unless otherwise agreed in writing, the parties shall limit public comment on the Settlement to the fact that there has been an amicable settlement, and in doing so may refer to the Settlement Agreement, Settlement Website, Notices, or may otherwise refer to and make representations in accordance with the Notice Plan. This Paragraph does not preclude Class Counsel from advising any Settlement Class Member.

12.13 Each counsel or other Person executing this Settlement Agreement, any of its Exhibits, or any related settlement documents on behalf of any Party hereto, hereby warrants and represents that such Person has the full authority to do so and has the authority to take

appropriate action required or permitted to be taken pursuant to the Agreement to effectuate its terms.

12.14 This Agreement may be executed in one or more counterparts. Signature by digital means, facsimile, or in PDF format will constitute sufficient execution of this Agreement. All executed counterparts and each of them shall be deemed to be one and the same instrument. A complete set of original executed counterparts shall be filed with the Court if the Court so requests.

12.15 This Settlement Agreement shall be binding upon, and inure to the benefit of, the successors and assigns of the Parties hereto and the Released Parties.

12.16 The Court shall retain jurisdiction with respect to implementation and enforcement of the terms of this Agreement, and all Parties hereto submit to the jurisdiction of the Court for purposes of implementing and enforcing the settlement embodied in this Agreement.

12.17 This Settlement Agreement shall be governed by and construed in accordance with the substantive laws of the State of New Jersey without giving effect to its conflict of laws provisions.

12.18 The Parties reserve the right, subject to the Court's approval, to agree to any reasonable extensions of time that might be necessary to carry out any of the provisions of this Settlement Agreement.

12.19 Plaintiffs and Class Counsel shall continue to treat as confidential all financial and class-related materials provided to Class Counsel as part of the Parties' Settlement. Upon dismissal of this action, Plaintiffs and Class Counsel shall permanently delete from their files and/or return to Defendant's counsel any confidential files produced by Defendant in this Action. Provided, however, that nothing herein shall preclude Plaintiffs and Class Counsel from

describing those materials in public Court filings necessary to obtain Court approval of the Settlement.

12.20 This Agreement is deemed to have been prepared by counsel for all Parties, as a result of arm's-length negotiations among the Parties. Because all Parties have contributed substantially and materially to the preparation of this Agreement, it shall not be construed more strictly against one Party than another.

12.21 Once the Parties and their counsel execute this Agreement, the Court will resolve any and all disputes that arise as to the interpretation or enforcement of this Agreement.

12.22 Where this Agreement requires notice to the Parties, such notice shall be sent to the undersigned counsel: Philip L. Fraietta, Bursor & Fisher, P.A., 1330 Avenue of the Americas, New York, NY 10019; Angelo Stio III, Troutman Pepper Hamilton Sanders, LLP, 301 Carnegie Center, Suite 400, Princeton, New Jersey 08543.


**THE SIGNATORIES HAVE CAREFULLY READ THIS ENTIRE AGREEMENT WHICH CONTAINS RELEASES ON BEHALF OF THE PLAINTIFFS AND THE SETTLEMENT CLASS, THE PARTIES HAVE BEEN REPRESENTED BY COUNSEL THROUGHOUT THE NEGOTIATION OF THIS AGREEMENT, AND HAVE CONSULTED WITH THEIR ATTORNEYS BEFORE SIGNING THIS AGREEMENT. THE PARTIES FULLY UNDERSTAND THE FINAL AND BINDING EFFECT OF THIS AGREEMENT. THE ONLY PROMISES OR REPRESENTATIONS MADE TO ANY SIGNATORY ABOUT THIS AGREEMENT ARE CONTAINED IN THIS AGREEMENT.**

**HAVING ELECTED TO EXECUTE THIS AGREEMENT WHICH CONTAINS RELEASES ON BEHALF OF PLAINTIFFS AND THE SETTLEMENT CLASS TO FULFILL THE PROMISES SET FORTH HEREIN, AND TO RECEIVE THEREBY THE SETTLEMENT SUMS AND BENEFITS SET FORTH ABOVE, PLAINTIFFS, PERSONALLY AND ON BEHALF OF THE SETTLEMENT CLASS, FREELY AND KNOWINGLY AND AFTER DUE CONSIDERATION, ENTER INTO THIS AGREEMENT INTENDING TO WAIVE, SETTLE AND RELEASE ALL CLAIMS AS IDENTIFIED IN THIS AGREEMENT AGAINST RELEASED PARTIES. THE PARTIES ARE SIGNING THIS AGREEMENT VOLUNTARILY AND KNOWINGLY.**

**IT IS SO AGREED TO BY THE PARTIES:**

Dated: March 20, 2024

**Steven Doval**

By:   
Steven Doval, individually and as representative of  
the Class

Dated: \_\_\_\_\_

**Melissa Cuello**

By: \_\_\_\_\_  
Melissa Cuello, individually and as representative  
of the Class

Dated: \_\_\_\_\_

**Ceana Cuello**

By: \_\_\_\_\_  
Ceana Cuello, individually and as representative of  
the Class

Dated: \_\_\_\_\_

**Fairleigh Dickenson University**

By: \_\_\_\_\_


Name: \_\_\_\_\_

Title: \_\_\_\_\_

**IT IS SO STIPULATED BY COUNSEL:**

Dated: March 21, 2024

**BURSOR & FISHER, P.A.**

By:   
Philip L. Fraietta  
[pfraietta@bursor.com](mailto:pfraietta@bursor.com)  
BURSOR & FISHER, P.A.  
1330 Avenue of the Americas  
New York, New York 10019  
Tel: (646) 837-7150  
Fax: (212) 989-9163

Dated:

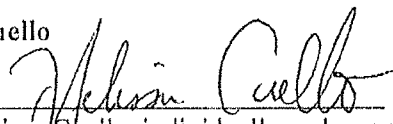
**VOZZOLO LLC**

By: \_\_\_\_\_

By: \_\_\_\_\_  
Steven Doval, individually and as representative of  
the Class

Dated: 3/21/24  
\_\_\_\_\_

Melissa Cuello

By:   
Melissa Cuello, individually and as representative  
of the Class

Dated: \_\_\_\_\_

Ceana Cuello

By: \_\_\_\_\_  
Ceana Cuello, individually and as representative of  
the Class

Dated: \_\_\_\_\_

Fairleigh Dickenson University

By: \_\_\_\_\_

Name: \_\_\_\_\_

Title: \_\_\_\_\_

**IT IS SO STIPULATED BY COUNSEL:**

Dated: \_\_\_\_\_

BURSOR & FISHER, P.A.

By: \_\_\_\_\_  
Philip L. Fraietta  
[pfraietta@bursor.com](mailto:pfraietta@bursor.com)  
BURSOR & FISHER, P.A.  
1330 Avenue of the Americas  
New York, New York 10019  
Tel: (646) 837-7150  
Fax: (212) 989-9163

Dated: \_\_\_\_\_

VOZZOLO LLC

By: \_\_\_\_\_



By: \_\_\_\_\_  
Steven Doval, individually and as representative of  
the Class

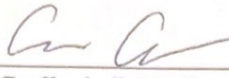
Dated: \_\_\_\_\_

**Melissa Cuello**

By: \_\_\_\_\_  
Melissa Cuello, individually and as representative  
of the Class

Dated: 3/28/24

**Ceana Cuello**

By:  \_\_\_\_\_  
Ceana Cuello, individually and as representative of  
the Class

Dated: \_\_\_\_\_

**Fairleigh Dickenson University**

By: \_\_\_\_\_

Name: \_\_\_\_\_

Title: \_\_\_\_\_

**IT IS SO STIPULATED BY COUNSEL:**

Dated: \_\_\_\_\_

**BURSOR & FISHER, P.A.**

By: \_\_\_\_\_  
Philip L. Fraietta  
[pfraietta@bursor.com](mailto:pfraietta@bursor.com)  
BURSOR & FISHER, P.A.  
1330 Avenue of the Americas  
New York, New York 10019  
Tel: (646) 837-7150  
Fax: (212) 989-9163

Dated: \_\_\_\_\_

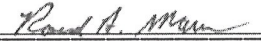
**VOZZOLO LLC**

By: \_\_\_\_\_

Antonio Vozzolo  
[avozzolo@vozzolo.com](mailto:avozzolo@vozzolo.com)  
Vozzolo LLC  
345 Route 17 South  
Upper Saddle River, New Jersey 074578  
Tel: (201) 630-8820  
Fax: (201) 604-8400

Dated:

**LAW OFFICES OF RONALD A. MARRON, APLC**

By:   
Ronald A. Marron (admitted *pro hac vice*)  
[ron@consumersadvocates.com](mailto:ron@consumersadvocates.com)  
Law Offices Of Ronald A. Marron, APLC  
651 Arroyo Drive  
San Diego, California  
Telephone: (619) 696-9006  
Facsimile: (619) 564-6665

*Attorneys for Class Representatives and the Settlement Class*

Dated: 4/3/24

**TROUTMAN PEPPER HAMILTON SANDERS LLP**

By:   
Angelo Stio III  
[angelo.stio@troutman.com](mailto:angelo.stio@troutman.com)

TROUTMAN PEPPER HAMILTON SANDERS LLP  
301 Carnegie Center, Suite 400  
Princeton, New Jersey 08543  
Tel: (609) 951-4125

*Attorney for Defendant Fairleigh Dickinson University*

By: \_\_\_\_\_  
Steven Doval, individually and as representative of  
the Class

Dated: \_\_\_\_\_

**Melissa Cuello**

By: \_\_\_\_\_  
Melissa Cuello, individually and as representative  
of the Class

Dated: \_\_\_\_\_

**Ceana Cuello**

By: \_\_\_\_\_  
Ceana Cuello, individually and as representative of  
the Class

Dated: 4/13/24

**Fairleigh Dickinson University**

By: 

Name: Frank Barra

Title: Senior Vice President & Chief Financial Officer

**IT IS SO STIPULATED BY COUNSEL:**


Dated: \_\_\_\_\_

**BURSOR & FISHER, P.A.**

By: \_\_\_\_\_  
Philip L. Fraietta  
[pfraietta@bursor.com](mailto:pfraietta@bursor.com)  
BURSOR & FISHER, P.A.  
1330 Avenue of the Americas  
New York, New York 10019  
Tel: (646) 837-7150  
Fax: (212) 989-9163

Dated: 3-20-2024

**VOZZOLO LLC**

By: 

By: \_\_\_\_\_  
Steven Doval, individually and as representative of  
the Class

Dated: \_\_\_\_\_

**Melissa Cuello**

By: \_\_\_\_\_  
Melissa Cuello, individually and as representative  
of the Class

Dated: \_\_\_\_\_

**Ceana Cuello**

By: \_\_\_\_\_  
Ceana Cuello, individually and as representative of  
the Class

Dated: \_\_\_\_\_

**Fairleigh Dickenson University**

By: \_\_\_\_\_

Name: \_\_\_\_\_

Title: \_\_\_\_\_

**IT IS SO STIPULATED BY COUNSEL:**

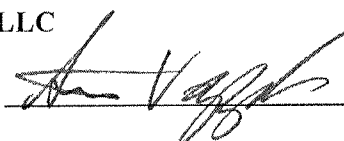
Dated: \_\_\_\_\_

**BURSOR & FISHER, P.A.**

By: \_\_\_\_\_  
Philip L. Fraietta  
[pfraietta@bursor.com](mailto:pfraietta@bursor.com)  
BURSOR & FISHER, P.A.  
1330 Avenue of the Americas  
New York, New York 10019  
Tel: (646) 837-7150  
Fax: (212) 989-9163

Dated: 3-20-2024

**VOZZOLO LLC**

By:  \_\_\_\_\_

**EXHIBIT A**

## **Fairleigh Dickinson University Settlement Electronic Claim Form**

### **CLAIM FORM AND INSTRUCTIONS**

In order for you to qualify to receive a payment related to *Doval, et al. v. Fairleigh Dickinson University*, Docket No. BER-L-004966-20, as described in the Notice of this Settlement (the “Class Notice”), you must file a Claim Form, as set forth below, to process your claim.

Your claim will only be considered upon compliance with all of the following conditions:

1. Please review the Notice of Proposed Class Action Settlement (the “Notice”) and have the Notice with you when you complete your Claim Form. A copy of the Notice is available at [www.fdusettlement.com](http://www.fdusettlement.com).
2. You must select a method of payment as identified below.
3. You must sign this Claim Form.
4. By signing and submitting this Claim Form, you are certifying under penalty of perjury that you were a student at Fairleigh Dickinson University (“FDU”) and/or you paid tuition or fees to FDU for the Spring 2020 Semester that have not been refunded.
5. In order for you to receive a cash payment as part of this Settlement, you must complete and submit the form below by no later than \_\_\_\_\_, 2024.
6. Your failure to complete and submit the Claim Form by \_\_\_\_\_, 2024 will preclude you from receiving any payment in this Settlement.

---

### **ELECTION OF PAYMENT METHOD**

---

**Please choose one of the following:**

#### **OPTION ONE: RECEIVE ELECTRONIC PAYMENT**

Confirm your email address below and an email will be sent from [noreply@XXXX.com](mailto:noreply@XXXX.com) to the email address you provided on this Election Form, prompting you to elect your method of payment. Venmo or PayPal will be available, or you can elect to receive a check. Please ensure you have provided a current and complete email address. If you do not provide a current and valid email address, the Settlement Administrator will attempt to mail you a check to the address on file per Fairleigh Dickinson University’s records.

#### **OPTION TWO: RECEIVE CASH PAYMENT BY CHECK**

If you need to update your name or address to receive a paper check, provide the information below. It is your responsibility to notify the Claims Administrator of any changes to your contact information after the submission of your Claim Form.

I, \_\_\_\_\_, state as follows:  
(PRINT FIRST AND LAST NAME)

\_\_\_\_\_  
Current Address

\_\_\_\_\_  
Current City State Zip Code

\_\_\_\_\_  
Telephone Number (Day) Telephone Number (Night)

\_\_\_\_\_  
Email Address

**SIGNATURE**

**DATE**

**ACCURATE CLAIMS PROCESSING TAKES TIME. THANK YOU FOR YOUR PATIENCE.**

Reminder Checklist:

1. Please select a method of payment;
2. Please sign the above Claim Form;
3. Keep print or screenshot copy of your completed Claim Form for your records;
4. If you move or your name changes, please send your new address, new name or updated contact information to the Claim Administrator via the Settlement Website, mail, or by calling the Claims Administrator's toll-free telephone number, listed in the Notice.

**EXHIBIT B**



From: SettlementAdminstrator@fdusettlement.com  
To: JonQClassMember@domain.com  
Re: Legal Notice of Class Action Settlement (FDU)

**NOTICE OF PROPOSED CLASS ACTION SETTLEMENT**

*Doval, et al., v. Fairleigh Dickinson University*, Case No. BER-L-004966-20  
**(Superior Court of New Jersey Law Division Bergen County)**

You are receiving this notice because records show that you paid tuition or fees (excluding Room and Board) to Fairleigh Dickinson University (“FDU”) for the Spring 2020 Semester and you may be eligible for a settlement payment under the terms of a recent class action settlement.

*A court has directed that this Notice be emailed to you. This is not a solicitation from a lawyer*

A proposed settlement has been reached in a class action lawsuit against FDU, the defendant in a matter pending in the Superior Court of New Jersey, Law Division Bergen County (“Action”). Plaintiffs Steven Doval, Melissa Cuello, and Ceana Cuello allege that FDU breached a contract with its students to provide in-person instruction and on-campus educational services for the Spring 2020 Semester by transitioning to remote learning and services environment in March 2020 in accordance with New Jersey Governor Murphy’s Executive Order without issuing tuition and fee refunds. FDU denies all allegations of wrongdoing and liability and no Court has made any finding of liability or wrongdoing by FDU. However, in order to support its students and their families and to resolve the matter, but without admitting any wrongdoing, FDU has agreed to establish a Settlement Fund to resolve all claims in the Action (the “Settlement”).

**Am I a Class Member?** FDU’s records indicate you may be a Class Member. Class Members are people who paid FDU Spring 2020 Semester tuition and fees or who benefitted from the payment, and whose tuition and fees have not been refunded.

**What Can I Get?** Class Members who submit a timely and valid Claim Form will receive a cash benefit as set forth below. A Settlement Fund of \$1,500,000.00 has been established to pay all claims to the Settlement Class, together with notice and administration expenses, approved attorneys’ fees and costs, and incentive awards. If you are entitled to relief, you will receive a *pro rata* share of the Settlement Fund, in an amount not to exceed \$155.00, which *pro rata* share will be based on the total out-of-pocket amount of tuition and fees (excluding Room and Board) you paid for the Spring 2020 Semester (less any outstanding balance from the Spring 2020 term still owed to FDU).

**YOU MUST SUBMIT A TIMELY, VALID CLAIM FORM TO RECEIVE A PAYMENT UNDER THE SETTLEMENT.**

**CLICK HERE TO SUBMIT A CLAIM**

**How Do I Get a Payment?** All Class Members must submit a timely, valid Claim Form postmarked or received by [**Claim Deadline**] to receive a payment under the Settlement. Your

payment will come by check to the residential address on file with FDU. You may visit the Settlement Website at [www.fdusettlement.com](http://www.fdusettlement.com) to update your mailing address or obtain and submit a Claim Form. You can also obtain a Claim Form by contacting the Settlement Administrator at the phone or address below. FDU has provided the Settlement Administrator with a list of the Class Members and their contact information. Also, the Court has issued an order permitting FDU, under the Family Educational Rights and Privacy Act (“FERPA”), to disclose to the Settlement Administrator, the Spring 2020 Semester out-of-pocket amount for each Class Member. FDU will release that information no later than five (5) business days after [\[objection/exclusion deadline\]](#). On or before [\[objection/exclusion deadline\]](#), you as a Class Member have the option to request that the Court quash its order requiring such disclosure as to your information.

**What are My Other Options?** You may exclude yourself from the Class by sending a letter to the Settlement Administrator postmarked or received no later than [\[objection/exclusion deadline\]](#). If you exclude yourself, you cannot get a settlement payment, but you keep any rights you may have to sue the FDU over the legal issues in the lawsuit. If you do not exclude yourself, you may object to the Settlement if you choose to do so. You and/or your lawyer have the right to appear before the Court and/or object to the proposed settlement. Your written objection must be filed no later than [\[objection/exclusion deadline\]](#). Specific instructions about how to object to, or exclude yourself from, the Settlement are available at [\[www.fdusettlement.com\]](http://www.fdusettlement.com). If you do nothing, and the Court approves the Settlement, you will be bound by all of the Court’s orders and judgments. In addition, your claims relating to the alleged breach of contract, unjust enrichment, conversion, and money had and received causes of action asserted in this case or which could have been brought in this case based upon the facts alleged regarding the Spring 2020 Semester will be released.

**Who Represents Me?** The Court has appointed Philip L. Fraietta of Bursor & Fisher, P.A., Antonio Vozzolo of Vozzolo LLC, and Ronald A Marron of the Law Offices of Ronald A. Marron, APLC to represent the class. These attorneys are called Class Counsel. You will not be charged for these lawyers. If you want to be represented by your own lawyer in this case, you may hire one at your expense.

**When Will the Court Consider the Proposed Settlement?** The Court will hold the Final Approval Hearing at [\[ \] .m. on \[date\]](#) at the Superior Court of New Jersey, Law Division, Bergen County, 10 Main St., Hackensack, New Jersey 07601. This hearing may be adjourned to a different date or may ultimately be conducted remotely. Please check the Settlement Website at [\[www.fdusettlement.com\]](http://www.fdusettlement.com) for updates. At that hearing, the Court will: hear any objections concerning the fairness of the settlement; determine the fairness of the settlement; decide whether to approve Class Counsel’s request for attorneys’ fees, costs, and expenses; and decide whether to award the Class Representatives \$5,000 each from the Settlement Fund for their services in helping to bring and settle this case. FDU does not object to Class Counsel seeking reasonable attorneys’ fees, costs, and expenses from the Settlement Fund in an amount to be determined by the Court. Class Counsel will seek no more than one-third (33.3%) of the Settlement Fund (or Five Hundred Thousand Dollars (\$500,000.00)), but the Court may Award less than this amount.

**To File a Claim or to Get More Information**, including a more detailed Notice, Claim Form, a copy of the Settlement Agreement and other documents, go to [www.fdusettlement.com](http://www.fdusettlement.com), contact the Settlement Administrator at 1-\_\_\_\_-\_\_\_\_-\_\_\_\_ or FDU Settlement Administrator, [postal address and email address], or call Class Counsel at 1-646-837-7150.

**By order of the Superior Court of New Jersey Law Division Bergen County**

**EXHIBIT C**

COURT AUTHORIZED NOTICE OF CLASS ACTION AND PROPOSED SETTLEMENT

FDU Settlement  
Settlement Administrator  
P.O. Box 0000  
City, ST 00000-0000

**FDU'S RECORDS  
INDICATE YOU ARE A  
PERSON WHO MAY  
HAVE PAID FAIRLEIGH  
DICKINSON  
UNIVERSITY SPRING  
2020 SEMESTER  
TUITION AND FEES OR  
WHO BENEFITTED  
FROM THE PAYMENT,  
AND WHOSE TUITION  
AND FEES HAVE NOT  
BEEN REFUNDED, AND  
MAY BE ENTITLED TO  
A PAYMENT FROM A  
CLASS ACTION  
SETTLEMENT.**



Postal Service: Please do not mark barcode

XXX—«ClaimID» «MailRec»

«First1» «Last1»

«C/O»

«Addr1» «Addr2»

«City», «St» «Zip» «Country»

By Order of the Court Dated: [date]

### FDU SETTLEMENT

A settlement has been reached in a class action lawsuit claiming that Defendant, Fairleigh Dickinson University (“FDU”), breached a contract with its students to provide physically in-person instruction and on-campus educational services for the Spring 2020 Semester by transitioning to remote learning and services environment in March 2020 in accordance with New Jersey Governor Murphy’s Executive Order without issuing tuition and fee refunds (except for Room and Board). FDU denies all allegations of wrongdoing and liability. FDU denies all allegations of wrongdoing and liability. There has been no finding of liability by any Court. However, in order to support its students and to resolve the matter, but without admitting any wrongdoing, FDU has agreed to establish a Settlement Fund to resolve all claims in the Action (the “Settlement”). The Court has preliminarily approved the Settlement.

**Am I a Class Member?** FDU’s records reflect you may be a Class Member. Class Members are people who paid Defendant Spring 2020 Semester tuition and fees or who benefitted from the payment, and whose tuition and fees have not been refunded.

**What Can I Get?** If approved by the Court, a Settlement Fund of \$1,500,000.00 has been established to pay all claims to the Settlement Class, together with notice and administration expenses, approved attorneys’ fees and costs, and incentive awards. If you are entitled to relief, you must complete a valid, timely Claim Form in order to receive a pro rata share of the Settlement Fund, up to \$155.00, which pro rata share will be based on the total out-of-pocket amount of tuition and fees paid for the Spring 2020 Semester (except for Room and Board) (less any outstanding balance from the Spring 2020 term still owed to FDU).

**How Do I Get a Payment?** All Class Members must submit a timely, valid Claim Form postmarked or received by [Claim Deadline] to receive a payment under the Settlement. Your payment will come by check to the residential address on file with FDU. You may visit the Settlement Website at [www.fdusettlement.com](http://www.fdusettlement.com) to update your mailing address or obtain and submit a Claim Form. You can also obtain a Claim Form by contacting the Settlement Administrator at the phone or address below. FDU has provided the Settlement Administrator with a list of the Class Members and their contact information. Also, the Court has issued an order permitting FDU, under the Family Educational Rights and Privacy Act (“FERPA”), to disclose to the Settlement Administrator, the Spring 2020 Semester out-of-pocket expenses and fees (excluding Room and Board) for each Class Member. FDU will release that information no later than five (5) business days after [objection/exclusion deadline]. On or before [objection/exclusion deadline], you as a Class Member have the option to request that the Court quash its order requiring such disclosure as to your information.

**What are My Other Options?** You may exclude yourself from the Class by sending a letter to the settlement administrator postmarked or received no later than [objection/exclusion deadline]. If you exclude yourself, you cannot get a settlement payment, but you keep any rights you may have to sue the FDU over the legal issues in the lawsuit. If you do not exclude yourself, you may object to the Settlement if you choose to do so. You and/or your lawyer have the right to appear before the Court and/or object to the proposed settlement. Your written objection must be filed no later than [objection/exclusion deadline]. Specific instructions about how to object to, or exclude yourself from, the Settlement are available at [[www.fdusettlement.com](http://www.fdusettlement.com)]. If you do nothing, and the Court approves the Settlement, you will be bound by all of the Court’s orders and judgments. In addition, your claims relating to the alleged breach of contract, unjust enrichment, conversion, and money had and received causes of action asserted in this case or which could have been brought in this case based upon the facts alleged regarding the Spring 2020 Semester will be released.

**Who Represents Me?** The Court has appointed Philip L. Fraietta of Bursor & Fisher, P.A., Antonio Vozzolo of Vozzolo LLC, and Ronald A Marron of the Law Offices of Ronald A. Marron, APLC to represent the class. These attorneys are called Class Counsel. You will not be charged for these lawyers. If you want to be represented by your own lawyer in this case, you may hire one at your expense.

**When Will the Court Consider the Proposed Settlement?** The Court will hold the Final Approval Hearing at [redacted] .m. on [date] at the Superior Court of New Jersey, Law Division, Bergen County, 10 Main St., Hackensack, New Jersey 07601. This hearing may be adjourned to a different date or may ultimately be conducted remotely. Please check the Settlement Website for updates. At that hearing, the Court will: hear any objections concerning the fairness of the settlement; determine the fairness of the settlement; decide whether to approve Class Counsel’s request for attorneys’ fees, costs, and expenses; and decide whether to award the Class Representatives \$5,000 each from the Settlement Fund for their services in helping to bring and settle this case. FDU does not object to Class Counsel seeking reasonable attorneys’ fees, costs, and expenses from the Settlement Fund in an amount to be determined by the Court. Class Counsel will seek no more than one-third (33.3%) of the Settlement Fund (or Five Hundred Thousand Dollars (\$500,000.00)), but the Court may Award less than this amount.

**To File a Claim or to Get More Information**, including a more detailed Notice, Claim Form, a copy of the Settlement Agreement and other documents, go to [www.fdusettlement.com](http://www.fdusettlement.com), contact the settlement administrator at 1-\_\_\_\_-\_\_\_\_-\_\_\_\_ or FDU Settlement Administrator, [postal address and email address], or call Class Counsel at 1-646-837-7150.

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

FDU Settlement Administrator  
c/o [Settlement Administrator]  
PO Box 0000  
City, ST 00000-0000

**XXX**

**EXHIBIT D**



**SUPERIOR COURT OF NEW JERSEY LAW DIVISION BERGEN COUNTY**

*Doval, et al., v. Fairleigh Dickinson University, Case No. BER-L-004966-20*

IF YOU ARE A PERSON WHO PAID FDU SPRING 2020 SEMESTER TUITION AND FEES OR WHO BENEFITTED FROM THE PAYMENT, AND WHOSE TUITION AND FEES HAVE NOT BEEN REFUNDED, YOU MAY BE ENTITLED TO A PAYMENT FROM A CLASS ACTION SETTLEMENT.

**The Superior Court of New Jersey Law Division Bergen County has preliminarily approved a class action settlement that may affect your legal rights.**

*A court authorized this notice. You are not being sued. This is not a solicitation from a lawyer.*

- A Settlement has been reached in a class action lawsuit against Fairleigh Dickinson University (“FDU” or “Defendant”). The class action lawsuit involves whether FDU breached a contract with its students to provide physically in-person instruction and on-campus educational services for the Spring 2020 Semester by transitioning to remote learning and services environment in March 2020 without issuing tuition and fee refunds. FDU denies all allegations of wrongdoing and liability. There has been no finding of liability by any Court. However, in order to support its students and their families and to resolve the matter, but without admitting any wrongdoing, FDU has agreed to establish a Settlement Fund to resolve all claims in the Action (the “Settlement”).
- You are included if you are a person who paid FDU Spring 2020 Semester tuition and fees or who benefitted from the payment, and whose tuition and fees have not been refunded. Those included in the Settlement will be eligible to receive a *pro rata* (meaning proportional) share of the Settlement Fund, up to \$155.00, which will be based on the total out-of-pocket amount of tuition and fees paid for the Spring 2020 Semester (less any outstanding balance from the Spring 2020 term still owed to FDU).
- **TO RECEIVE PAYMENT UNDER THE SETTLEMENT, YOU MUST SUBMIT A TIMELY AND VALID CLAIM FORM.**
- **Read this notice carefully. Your rights are affected whether you act, or don’t act.**

<b>YOUR LEGAL RIGHTS AND OPTIONS IN THIS SETTLEMENT</b>	
<b>DO NOTHING</b>	If you do nothing, you will receive no payment under the Settlement. You will also give up your rights to sue FDU about the claims in this case.
<b>SUBMIT A VALID CLAIM FORM BY [DATE]</b>	This is the only way to receive a payment under the Settlement. Claim Forms must be postmarked or received by <b>[Claim Deadline]</b> .

**QUESTIONS? CALL (800) 000-0000 TOLL FREE, OR VISIT [WWW.FDUSETTLEMENT.COM](http://WWW.FDUSETTLEMENT.COM)**

<b>EXCLUDE YOURSELF BY [DATE]</b>	If you opt out of the Settlement, you will receive no benefits, but you will retain any rights you currently have to sue FDU about the claims in this case. Any request for exclusion must be postmarked or received by <b>[exclusion deadline]</b> .
<b>OBJECT BY [DATE]</b>	If you wish, you may write to the Court explaining why you don't like the Settlement. Any objection must be filed and copies received by <b>[objection deadline]</b> .
<b>GO TO THE HEARING ON [DATE]</b>	You may ask to speak in Court about your opinion of the Settlement. Your notice of appearance must be filed and copies received by <b>[objection deadline]</b> .

These rights and options—**and the deadlines to exercise them**—are explained in this Notice.

## BASIC INFORMATION

### 1. Why was this Notice issued?

A Court authorized this notice because you have a right to know about a proposed Settlement of this class action lawsuit and about all of your options before the Court decides whether to give final approval to the Settlement. This Notice explains the lawsuit, the Settlement, and your legal rights.

If you received a Notice by email or mail, it is because records obtained in this case indicate that you were a student at Fairleigh Dickinson University (“FDU”) and/or you paid tuition or fees to FDU for the Spring 2020 Semester. As a result, you may be a Settlement Class Member (see Section 5 below for details).

The Honorable Mary F. Thurber of the Superior Court of New Jersey, Law Division, Bergen County, is overseeing this case. The case is called *Doval, et al., v. Fairleigh Dickinson University*, Case No. BER-L-004966-20. The people who sued are called the Plaintiffs. The Defendant is FDU.

### 2. What is a class action?

In a class action, one or more people called class representatives (in this case, Steven Doval, Melissa Cuello, and Ceana Cuello) sue on behalf of a group or a “class” of people who have similar claims. In a class action, the court resolves the issues for all class members, except for those who exclude themselves from the Class.

### 3. What is this lawsuit about?

This lawsuit claims that Defendant breached a contract with its students to provide physically in-person instruction and on-campus educational services for the Spring

**QUESTIONS? CALL (800) 000-0000 TOLL FREE, OR VISIT [WWW.FDUSETTLEMENT.COM](http://WWW.FDUSETTLEMENT.COM)**

2020 Semester by transitioning to remote learning and services environment in March 2020 without issuing tuition and fee refunds. FDU denies it violated any law or legally enforceable commitment or promise. The Court has not determined who is right. Rather, the Parties have agreed to settle the lawsuit to avoid the uncertainties and expenses associated with ongoing litigation.

#### **4. Why is there a Settlement?**

The Court has not decided whether the Plaintiffs or FDU should win this case. Instead, both sides agreed to a Settlement. That way, they avoid the uncertainties and expenses associated with ongoing litigation, and the Class Members will get compensation and avoid the uncertainty of getting no payment if the matter proceeded to trial and a Court found FDU is not liable for the claims.

#### **WHO'S INCLUDED IN THE SETTLEMENT?**

#### **5. How do I know if I am in the Settlement Class?**

The Court decided that everyone who fits the following description is a member of the **Settlement Class**:

All people who paid FDU Spring 2020 Semester tuition and fees or who benefitted from the payment, and whose tuition and fees have not been refunded.

Excluded from the Settlement Class will be: (a) all students who were enrolled entirely in an on-line program at the beginning of the Spring 2020 Semester, (b) all students whose gift, aid or scholarship, regardless of source, equaled or exceeded the cost of tuition and fees for the Spring 2020 Semester, (c) persons who timely and properly exclude themselves from the Class as provided in the Settlement, and (e) the Court, the Court's immediate family, and Court staff.

#### **THE SETTLEMENT BENEFITS**

#### **6. What does the Settlement provide?**

**Monetary Relief:** A Settlement Fund has been created totaling \$1,500,000.00. Only Class Members who complete and submit a timely and valid Claim Form postmarked or received by [**Claim Deadline**] may receive monetary benefits (*see* Question 7). In addition to Class Member payments, the cost to administer the Settlement, the cost to inform people about the Settlement, attorneys' fees and expenses (inclusive of litigation costs), and an award to each of the Class Representatives will also come out of this fund (*see* Question 12).

**QUESTIONS? CALL (800) 000-0000 TOLL FREE, OR VISIT [WWW.FDUSSETTLEMENT.COM](http://WWW.FDUSSETTLEMENT.COM)**

A detailed description of the settlement benefits can be found in the Settlement Agreement, a copy of which is accessible on the Settlement Website by clicking [here](#).  
[insert hyperlink]

## **SUBMITTING A TIMELY, VALID CLAIM FORM IS THE ONLY WAY TO GET A PAYMENT AS PART OF THIS SETTLEMENT**

### **7. How much will my payment be?**

Each Class Member who submits a valid and timely Claim Form and who does not opt out of participating in the settlement will receive a proportionate share of the Settlement Fund, in an amount not to exceed \$155.00, which will be based on the out-of-pocket amount of tuition and fees paid by or for the Class Member for the Spring 2020 Semester (less any outstanding balance from the Spring 2020 term still owed to Defendant). Out-of-Pocket Tuition and Fees is defined in Section 2.25 of the Settlement Agreement.

### **8. When will I get my payment?**

The hearing to consider the fairness of the settlement is scheduled for [Final Approval Hearing Date]. If the Court approves the settlement, eligible Class Members will receive their payment within 50 days after the Effective Date of the Settlement, which is no sooner than 10 business days after the Settlement has been finally approved and/or after any appeals process is complete. The payment will be made in the form of a check and all checks will expire and become void 180 days after they are issued.

## **HOW TO GET BENEFITS**

### **9. How do I get a payment?**

**TO BE ELIGIBLE TO RECEIVE A PAYMENT FROM THE SETTLEMENT, YOU MUST COMPLETE AND SUBMIT A TIMELY AND VALID CLAIM FORM.** If you are a Class Member and you want to get a payment, you must submit a timely and valid Claim Form postmarked or received no later than [**Claim Deadline**].

You can complete and submit your Claim Form online at the Settlement Website, [www.fdusettlement.com](http://www.fdusettlement.com). The Claim Form can be downloaded from the Settlement Website, as well. You can request a Claim Form to be sent to you by sending a written request to the Settlement Administrator by mail or by email.

MAIL: *Doval, et al., v. Fairleigh Dickinson University*, c/o XXXX Settlement Administration, P.O. Box XXXX, [ADDRESS]

EMAIL: [claims@fdusettlement.com](mailto:claims@fdusettlement.com)

**QUESTIONS? CALL (800) 000-0000 TOLL FREE, OR VISIT [WWW.FDUSETTLEMENT.COM](http://WWW.FDUSETTLEMENT.COM)**

Your payment will come by check to the residential address on file with FDU. If you have changed addresses or are planning to change addresses prior to [insert date 50 days plus 10 business days after final approval hearing date], please click [here](#) [insert hyperlink] to complete and submit a change of address form on the Settlement Website or visit [www.fdusettlement.com](http://www.fdusettlement.com).

**IF YOU DO NOT SUBMIT A VALID CLAIM FORM BY THE DEADLINE, YOU WILL NOT RECEIVE A PAYMENT.**

## REMAINING IN THE SETTLEMENT

### 10. What am I giving up if I stay in the Class?

If the Settlement becomes final, you will give up your right to sue FDU and other Released Parties for the claims being resolved by this Settlement. The specific claims you are giving up against FDU and other Released Parties are described in the Settlement Agreement. You will be “releasing” FDU and certain of its affiliates, trustees, faculty, employees and representatives as described in Section 2.32 of the Settlement Agreement. Unless you exclude yourself (*see* Question 13), you are “releasing” the claims, regardless of whether you submit a Claim Form or not. The Settlement Agreement is available through the “court documents” link on the website [www.fdusettlement.com](http://www.fdusettlement.com).

The Settlement Agreement describes the released claims with specific descriptions, so read it carefully. If you have any questions you can talk to the lawyers listed in Question 11 for free or you can, of course, talk to your own lawyer if you have questions about what this means.

## THE LAWYERS REPRESENTING YOU

### 11. Do I have a lawyer in the case?

The Court has appointed Philip L. Fraietta and Alec M. Leslie of Bursor & Fisher, P.A., Antonio Vozzolo of Vozzolo LLC, and Ronald A. Marron of the Law Offices of Ronald A. Marron, APLC to be the attorneys representing the Settlement Class. They are called “Class Counsel.” They believe, after conducting an extensive investigation, that the Settlement Agreement is fair, reasonable, and in the best interests of the Settlement Class. You will not be charged for these lawyers. If you want to be represented by your own lawyer in this case, you may hire one at your expense.

### 12. How will the lawyers be paid?

QUESTIONS? CALL (800) 000-0000 TOLL FREE, OR VISIT [WWW.FDUSETTLEMENT.COM](http://WWW.FDUSETTLEMENT.COM)

The Defendant has agreed that Class Counsel's attorneys' fees, expenses and costs may be paid out of the Settlement Fund in an amount to be determined by the Court. The fee petition will seek no more than one-third (33.3%) of the Settlement Fund or five hundred thousand dollars (\$500,000.00), inclusive of reimbursement of their costs and expenses (not including the administrative costs of settlement or notice). Under the Settlement Agreement, any amount awarded to Class Counsel for fees, expenses and costs will be paid out of the Settlement Fund.

Class Counsel will also request an incentive award of \$5,000 each from the Settlement Fund for their services in helping to bring and resolve this case.

The amounts to be awarded as attorneys' fees, reimbursement of costs and expenses, and incentive awards must be approved by the Court.

### EXCLUDING YOURSELF FROM THE SETTLEMENT

#### 13. How do I get out of the Settlement?

To exclude yourself from the Settlement, you must submit a request for exclusion postmarked or received by 11:59 p.m. EST on **[objection/exclusion deadline]**. Requests for exclusion may be submitted either on the Settlement Website (via the online form accessible [here \[insert hyperlink\]](#)) or by mailing or otherwise delivering a letter (or request for exclusion) stating that you want to be excluded from the *Doval, et al., v. Fairleigh Dickinson University*, Case No. BER-L-004966-20 settlement. Your letter or request for exclusion must also include your name, your address, your signature, the name and number of this case, and a statement that you wish to be excluded. If you choose to submit a request for exclusion by mail, you must mail or deliver your exclusion request, postmarked no later than **[objection/exclusion deadline]**, to the following address:

**FDU Settlement**  
**0000 Street**  
**City, ST 00000**

#### 14. If I don't exclude myself, can I sue the Defendant for the same thing later?

No. Unless you exclude yourself, you give up any right to sue FDU for the claims being resolved by this Settlement.

#### 15. If I exclude myself, can I get anything from this Settlement?

No. If you exclude yourself, you will not receive any payment from the Settlement Fund.

**QUESTIONS? CALL (800) 000-0000 TOLL FREE, OR VISIT WWW.FDUSETTLEMENT.COM**

## 16. What information is needed from me to participate in the Settlement?

Settlement Class Members must submit a valid, timely Claim Form to receive a *pro rata* share of the Settlement Fund, in an amount up to \$155.00. FDU has provided the Settlement Administrator with a list of the Class Members and their contact information. Also, the Court has issued an order permitting FDU, under the Family Educational Rights and Privacy Act (“FERPA”), to disclose to the Settlement Administrator the Spring 2020 Semester Out-of-Pocket Tuition and Fees for each Class Member as defined in Section 2.25 of the Settlement Agreement. FDU will release that information no later than five (5) days after [objection/exclusion deadline]. On or before [objection/exclusion deadline], you as a Class Member have the option to request that the Court quash its order requiring such disclosure as to your information.

### OBJECTING TO THE SETTLEMENT

## 17. How do I object to the Settlement?

If you are a Class Member, and you have not elected to exclude yourself from the Settlement by opting out, you can object to the Settlement if you don’t like any part of it. You can give reasons why you think the Court should not approve it. The Court will consider your views. To object, you must file with the Court a letter or brief stating that you object to the Settlement in *Doval, et al., v. Fairleigh Dickinson University*, Case No. BER-L-004966-20 and identify all your reasons for your objections (including citations and supporting evidence) and attach any materials you rely on for your objections. Your letter or brief must also include your full name, your address, your telephone number, the basis upon which you claim to be a Class Member, the name and contact information of any and all attorneys representing, advising, or in any way assisting you in connection with your objection, a statement confirming whether you intend to personally appear and/or testify at the Final Approval Hearing, the identity of any counsel who will appear at the Final Approval Hearing on your behalf, a list of any witnesses you wish to call to testify, or any documents or exhibits you or your counsel may use, at the Final Approval Hearing, the number of class actions in which you or your attorneys have filed an objection in the last five (5) years, and your signature. If you, or an attorney assisting you with your objection, have ever objected to any class action settlement where you or the objecting attorney has asked for or received payment in exchange for dismissal of the objection (or any related appeal) without modification to the settlement, you must include a statement in your objection identifying each such case by full case caption and amount of payment received. In addition to filing your objection, you must also mail or deliver a copy of your letter or brief to the Settlement Administrator, Class Counsel and Defendant’s Counsel listed below, received no later than [objection deadline].

Class Counsel will file with the Court and post on the settlement website its request for attorneys’ fees by [two weeks prior to objection deadline].

QUESTIONS? CALL (800) 000-0000 TOLL FREE, OR VISIT [WWW.FDUSETTLEMENT.COM](http://WWW.FDUSETTLEMENT.COM)

If you want to appear and speak at the Final Approval Hearing to object to the Settlement, with or without a lawyer (explained below in answer to Question Number 20), you must say so in your letter or brief. File the objection with the Court (or mail the objection to the Court) and mail a copy of the objection to the Settlement Administrator, Class Counsel and Defendant’s Counsel, at the addresses below, received no later than **[objection deadline]**.

<b>Court</b>	<b>Class Counsel</b>
Clerk of the Court Superior Court of New Jersey, Law Division, Bergen County 10 Main Street Hackensack, NJ 07601  OR  The Court’s eCourts Civil filing system	Philip L. Fraietta Alec M. Leslie Bursor & Fisher P.A. 1330 Avenue of the Americas New York, NY 10019
<b>Settlement Administrator</b>	<b>Defendant’s Counsel</b>
<b>FDU Settlement Administrator</b> <b>Attn: Objections</b> <b>P.O. Box 0000</b> <b>City, ST 00000</b>	Angelo Stio III Troutman, Pepper, Hamilton, Sanders, LLP 301 Carnegie Center Suite 400 Princeton, NJ 08543

**18. What’s the difference between objecting and excluding myself from the Settlement?**

Objecting simply means telling the Court that you don’t like something about the Settlement. You can object only if you stay in the Class. Excluding yourself from the Class is telling the Court that you don’t want to be part of the Class and thus do not want to receive any benefits from the Settlement. If you exclude yourself, you have no basis to object because the case no longer affects you.

**THE COURT’S FINAL APPROVAL HEARING**

**19. When and where will the Court decide whether to approve the Settlement?**

The Court will hold the Final Approval Hearing at **\_\_\_\_\_ .m. on [date]** at Superior Court of New Jersey, Law Division, Bergen County, 10 Main Street, Hackensack, New Jersey 07601. The purpose of the hearing will be for the Court to determine whether to approve the Settlement as fair, reasonable, adequate, and in the best interests of the

**QUESTIONS? CALL (800) 000-0000 TOLL FREE, OR VISIT WWW.FDUSETTLEMENT.COM**



Class; to consider Class Counsel's request for attorneys' fees and expenses; and to consider the request for incentive awards to the Class Representatives. At that hearing, the Court will be available to hear any objections and arguments concerning the fairness of the Settlement.

The hearing may be postponed to a different date or time without notice, so it is a good idea to check for updates by visiting the Settlement Website at [www.fdusettlement.com](http://www.fdusettlement.com) or calling (800) 000-0000. No further notice will be provided if the Settlement has been approved, so monitor the Settlement Website for further developments. If, however, you timely objected to the Settlement and advised the Court that you intend to appear and speak at the Final Approval Hearing, you will receive notice of any change in the date of the Final Approval Hearing.

#### **20. Do I have to come to the hearing?**

No. Class Counsel will answer any questions the Court may have. But you are welcome to come at your own expense. If you send an objection or comment, you don't have to come to Court to talk about it. As long as you filed and mailed your written objection on time, the Court will consider it. You may also pay another lawyer to attend, but it's not required.

#### **21. May I speak at the hearing?**

Yes, as long as you do not exclude yourself from the Settlement, you may ask the Court for permission to speak at the Fairness Hearing. This is called making an appearance. You can also have your own lawyer appear in court and speak for you (instead of Class Counsel), but you will have to pay for the lawyer yourself.

If you want yourself or your own lawyer to participate or speak for you in the lawsuit, you must file with the Court a Notice of Appearance titled "Notice of Intent to Appear in *Doval, et al., v. Fairleigh Dickinson University*, Case No. BER-L-004966-20." It must include a statement that you or your lawyer wish to appear at the Fairness Hearing, your name, address, telephone number and signature, as well as the name and address of your lawyer, if one is appearing for you. If you submit an objection (see Question 17 above) and would like to speak about the objection at the Court's Fairness Hearing, you, both your Notice of Appearance and your letter or brief objecting to the settlement should include that information.

Your objection and/or notice of intent to appear must be filed with the Court and received at the addresses listed in Question 17 no later than **[objection deadline]**.

### **GETTING MORE INFORMATION**

#### **22. Where do I get more information?**

**QUESTIONS? CALL (800) 000-0000 TOLL FREE, OR VISIT [WWW.FDUSETTLEMENT.COM](http://WWW.FDUSETTLEMENT.COM)**

This Notice summarizes the Settlement. More details are in the Settlement Agreement. You can get a copy of the Settlement Agreement at [www.fdusettlement.com](http://www.fdusettlement.com). You may also write with questions to **FDU Settlement, P.O. Box 0000, City, ST 00000**. You can call the Settlement Administrator at **(800) 000-0000** or Class Counsel at (646) 837-7150, if you have any questions. Before doing so, however, please read this full Notice carefully. You may also find additional information elsewhere on the case website [www.fdusettlement.com](http://www.fdusettlement.com).

**QUESTIONS? CALL (800) 000-0000 TOLL FREE, OR VISIT WWW.FDUSETTLEMENT.COM**

**EXHIBIT E**

STEVEN DOVAL, MELISSA CUELLO, and  
CEANA CUELLO, individually and on  
behalf of all others similarly situated,

Plaintiffs,

v.

FAIRLEIGH DICKINSON UNIVERSITY,

Defendant.

SUPERIOR COURT OF NEW JERSEY  
LAW DIVISION  
BERGEN COUNTY

Case No. BER-L-004966-20

**STIPULATION REGARDING UNDERTAKING RE: ATTORNEYS' FEES AND COSTS**

Plaintiffs Steven Doval, Melissa Cuello, and Ceana Cuello (“Plaintiffs”) and Defendant Fairleigh Dickinson University (“FDU”) (collectively, “the Parties”), by and through and including their undersigned counsel, stipulate and agree as follows:

WHEREAS, Class Counsel Philip L. Fraietta of Bursor & Fisher, P.A., Antonio Vozzolo of Vozzolo LLC, and Ronald A Marron of the Law Offices of Ronald A. Marron, APLC and their respective law firms desire to give an undertaking (the “Undertaking”) for repayment of their award of attorney fees and costs, approved by the Court, and

WHEREAS, the Parties agree that this Undertaking is in the interests of all Parties and in service of judicial economy and efficiency.

NOW, THEREFORE, the undersigned Class Counsel, on behalf of themselves and as the authorized agent for their respective law firms, hereby submit themselves and their law firms and their members to the continued jurisdiction of the Court for the purpose of enforcing the provisions of this Undertaking.

Capitalized terms used herein without definition have the meanings given to them in the Settlement Agreement.

By receiving any payments pursuant to the Settlement Agreement, Bursor & Fisher, P.A., Vozzolo LLC, and the Law Offices of Ronald A. Marron, APLC, and its shareholders, members, and/or partners consent and submit to the continued jurisdiction of the Superior Court of New Jersey, Law Division, Bergen County for the adjudication and enforcement of and any and all disputes relating to or arising out of Class Counsel's reimbursement obligation set forth herein and in the Settlement Agreement. The Final Settlement Order and Judgment shall state that the Court retains jurisdiction over such disputes.

In the event that the Final Settlement Order and Judgment or any part of it is vacated, overturned, reversed, or rendered void as a result of an appeal, or the Settlement Agreement is voided, rescinded, or otherwise terminated for any other reason, Class Counsel shall, within thirty (30) days repay to FDU, based upon written instructions provided by FDU's Counsel, the full amount of the attorneys' fees and costs paid to Class Counsel from the Settlement Fund, including any accrued interest.

In the event the attorney fees and costs awarded by the Court or any part of them are vacated, modified, reversed, or rendered void as a result of an appeal, Class Counsel shall within thirty (30) days repay to FDU, based upon written instructions provided by FDU's Counsel, the attorneys' fees and costs paid to Class Counsel and/or Representative Plaintiffs from the Settlement Fund in the amount vacated or modified, including any accrued interest.

This Undertaking and all obligations set forth herein shall expire upon finality of all direct appeals of the Final Settlement Order and Judgment.

In the event Class Counsel fails to repay to FDU any attorneys' fees and costs that are owed to it pursuant to this Undertaking, the Court shall, upon application of FDU, and notice to Class Counsel, summarily issue orders, including but not limited to judgments and attachment orders against each of Class Counsel, and may make appropriate fines for sanctions and contempt of court.

The undersigned stipulate, warrant, and represent that they have both actual and apparent authority to enter into this stipulation, agreement, and undertaking on behalf of their law firms, Bursor & Fisher, P.A., Vozzolo LLC, and the Law Offices of Ronald A. Marron, APLC respectively.

This Undertaking may be executed in one or more counterparts, each of which shall be deemed an original but all of which together shall constitute one and the same instrument. Signatures by facsimile shall be as effective as original signatures.

The undersigned declare under penalty of perjury under the laws of the United States that they have read and understand the foregoing and that it is true and correct.

IT IS SO STIPULATED THROUGH COUNSEL OF RECORD:

DATED: \_\_\_\_, 2024

BURSOR & FISHER, P.A.

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By: Philip L. Fraietta, individually and  
on behalf of Bursor & Fisher, P.A.  
Attorneys for Plaintiffs

VOZZOLO LLC

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By: Antonio Vozzolo, individually and  
on behalf of Vozzolo LLC

Attorneys for Plaintiffs

LAW OFFICES OF RONALD A. MARRON, APLC

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By: Ronald A. Marron, individually and  
on behalf of Law Offices of Ronald A. Marron, APLC  
Attorneys for Plaintiffs

DATED: \_\_\_\_, 2024

TROUTMAN PEPPER HAMILTON SANDERS LLP

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By: Angelo Stio III  
Attorneys for Defendant Fairleigh Dickinson University

**EXHIBIT F**



## **PUBLIC STATEMENT**

Fairleigh Dickinson University has agreed to settle a class action lawsuit filed by a parent and student who sought to recover a refund of a portion of the tuition and fees they paid during the spring 2020 semester after the University transitioned to remote learning in order to comply with Governor Murphy's order requiring all New Jersey institutions of higher education to cease in-person instruction to reduce the spread of COVID-19. The settlement is without any admission of liability or wrongdoing by Fairleigh Dickinson University, but is being entered into in order to avoid the expense, risk, and uncertainty associated with continued litigation and to enable Fairleigh Dickinson University to continue to advance its commitment to providing a quality and affordable personalized education experience for all students.

In the lawsuit, the plaintiffs claimed that they were entitled to a refund of tuition and fees paid for the spring 2020 semester. Fairleigh Dickinson University denied the plaintiffs' allegations claiming that all its actions in providing a virtual educational environment were lawful, made in good faith, and enabled students to complete their education without interruption.

Under the settlement, Fairleigh Dickinson University will create a \$1.5 million fund that will be used to reimburse students and parents for up to \$155 in tuition and fees paid during the spring 2020 semester. The parties agreed that any undistributed amounts from the settlement fund will be used to establish a scholarship fund at Fairleigh Dickinson University that will be used to benefit students with unmet financial needs.