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[EXEMPT FROM FILING FEES
UNDER GOV. CODE, § 6103]

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San Francisco County Superior Court

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CLERK OF THE COURT
BY: NEYL WEBB
Deputy Clerk

SUPERIOR COURT OF THE STATE OF CALIFORNIA
FOR THE COUNTY OF SAN FRANCISCO

THE PEOPLE OF THE STATE OF CALIFORNIA,

Plaintiff,

v.

NAVIENT CORPORATION; NAVIENT SOLUTIONS, LLC; PIONEER CREDIT RECOVERY, INC.; AND GENERAL REVENUE CORPORATION,

Defendants.

Case No. **CGC-18-567732**

COMPLAINT FOR PERMANENT INJUNCTION, CIVIL PENALTIES, RESTITUTION, AND OTHER EQUITABLE RELIEF

(BUS. & PROF. CODE, § 17200 et seq.)

[VERIFIED ANSWER REQUIRED UNDER CODE CIV. PROC., § 446]

The People of the State of California (“People”), by and through Xavier Becerra, Attorney General of the State of California, allege the following on information and belief:

INTRODUCTION

1. Navient and its debt-collection subsidiaries have committed significant and pervasive violations of California’s consumer-protection laws against thousands—if not hundreds

1 of thousands—of student-loan borrowers in California. Navient is the largest student-loan
2 servicer in the country, servicing the loans of more than 12 million borrowers nationwide with
3 more than \$300 billion in federal and private student loans.

4 2. At every turn, Navient has failed to live up to its responsibilities in servicing
5 federal student loans. For example, for years, Navient promised borrowers that it would counsel
6 them on various reduced-repayment options in light of their financial situation. In reality, Navient
7 steered borrowers facing long-term financial distress into short-term forbearances rather than
8 informing them of options that could have saved borrowers thousands of dollars. Navient did this
9 to save itself time and money. For borrowers that were able to ultimately enroll in a reduced-
10 repayment plan, Navient provided them with deficient and misleading notices regarding renewal
11 of those plans. And when, as a result, borrowers failed to timely renew, their monthly repayment
12 amount would immediately increase. Navient also promised borrowers that they could reduce
13 their principal by making extra payments but applied overpayments first to fees and interest.
14 These and other systematic violations of California’s consumer-protections laws have harmed
15 numerous California borrowers with federal student loans serviced by Navient.

16 3. When borrowers default on their federal student loans—often as the inevitable
17 result of Navient’s servicing misconduct—Navient’s wholly owned debt-collection subsidiaries,
18 Pioneer and GRC, engaged in further violations of California law that have likewise harmed
19 Californian borrowers. For example, Pioneer and GRC have exaggerated the benefits of
20 rehabilitation plans on borrowers’ credit reports and misrepresented the amount of fees that are
21 forgiven if borrowers succeed in rehabilitating their loans. Pioneer has also misstated to
22 delinquent borrowers the standard for total and permanent disability.

23 **DEFENDANTS**

24 4. In 1972, Congress created the Student Loan Marketing Association (commonly
25 referred to as “Sallie Mae”), a government-sponsored enterprise, to support the student-loan
26 program created by the Higher Education Act of 1965. (20 U.S.C. § 1001 et seq.) In 1984, Sallie
27 Mae became a publicly traded company, and from approximately 1997 to 2004, Sallie Mae
28 transitioned into a private company.

1 5. By 2005, Sallie Mae was fully privatized, with SLM Corporation as the parent
2 company and subsidiary Sallie Mae, Inc. responsible for most of the company’s student-loan
3 servicing and debt-collection businesses. From 2004 until April 2014, SLM Corporation and its
4 subsidiaries conducted the full spectrum of student-lending activities—including originating loans
5 under the Federal Family Education Loan (“FFEL”) Program (34 C.F.R. § 682.100 et seq.);
6 developing and implementing lending policies; marketing student loans and loan packages to
7 schools and students; funding and distributing loans; and then servicing and collecting loans. In
8 April 2014, SLM Corporation split into two publicly traded entities: (a) a servicing and debt-
9 collection business (Navient Corporation); and (b) a student-lending business (a new SLM
10 Corporation).

11 6. Defendant Navient Corporation (“Navient Corp.”) is a Delaware corporation. After
12 the 2014 split described above, Navient Corp. assumed responsibility for liabilities resulting from
13 certain pre-split conduct of the former SLM Corporation and its subsidiaries, including the
14 servicing and debt-collection misconduct alleged in this Complaint. Defendant Navient Corp. is
15 therefore included in this Complaint for servicing and collection-related conduct prior to the 2014
16 split.

17 7. Also as part of this split, Sallie Mae, Inc. was transferred to Navient Corp. and its
18 subsidiaries. Sallie Mae, Inc. then changed its name to Navient Solutions, Inc. Navient Solutions,
19 Inc. later converted from a corporation into a limited liability company and became known as
20 Navient Solutions, LLC.

21 8. Defendant Navient Solutions, LLC (“Navient Solutions”), a Delaware limited-
22 liability company, is a wholly owned subsidiary of Navient Corp.

23 9. In this Complaint, Sallie Mae, Inc.; Navient Solutions, LLC; and Navient Corp. are
24 referred to collectively as “Navient.” Today, Navient services more than \$300 billion in student
25 loans for more than 12 million borrowers nationwide, including hundreds of thousands of federal
26 student-loan borrowers in California.

27 10. Defendant Pioneer Credit Recovery, Inc. (“Pioneer”), a Delaware corporation, is a
28 wholly owned subsidiary of Navient Corp. Pioneer principally engages in debt-collection

1 activities related to student loans. Pioneer is a “debt collector” under the Rosenthal Fair Debt
2 Collection Practices Act, Civil Code section 1788 et seq. (“Rosenthal Act”). (Civ. Code,
3 § 1788.2, subd. (c).)

4 11. Defendant General Revenue Corporation (“GRC”), an Ohio corporation, is a
5 wholly owned subsidiary of Navient Corp. GRC engages in debt-collection activities related to
6 outstanding and delinquent student loans on behalf of several owners of federal student loans.
7 GRC is a “debt collector” under the Rosenthal Act. (Civ Code, § 1788.2, subd. (c).)

8 12. Navient Corp., Sallie Mae, Inc., Navient Solutions, Pioneer, and GRC act and have
9 acted as a single enterprise, including having identical equitable ownership and identical directors
10 and officers. The following examples are illustrative:

11 a. One person simultaneously served as President and Chief Executive
12 Officer of both Navient Corp. and Navient Solutions;

13 b. Another person simultaneously served as Chief Operating Officer for both
14 Navient Corp. and Navient Solutions;

15 c. Another person simultaneously served as Chief Financial Officer for both
16 Navient Corp. and Navient Solutions;

17 d. Another person simultaneously served as Chief Risk Officer for both
18 Navient Corp. and Navient Solutions;

19 e. Another person simultaneously served as Senior Vice President and
20 Treasurer for both Navient Corp. and Navient Solutions;

21 f. Another person simultaneously served as Vice President and Secretary for
22 Navient Corp. and Vice President, Associate General Counsel, and Assistant Secretary for
23 Navient Solutions;

24 g. Another person is a current Director of Pioneer and GRC, and also serves
25 as Senior Vice President for Navient Corp.; and

26 h. Another person is the current President of Pioneer, and also serves as Vice
27 President of Operations for Navient Corp. and GRC.

28 13. Navient Corp. issues consolidated annual reports and SEC filings which include

1 Navient Solutions, Pioneer, and GRC. In addition, Navient Corp. issues consolidated financial
2 statements and balance sheets for itself and its wholly owned subsidiaries, including Navient
3 Solutions, Pioneer, and GRC.

4 14. Navient Corp. owns or leases the offices used by its wholly owned subsidiaries,
5 including Navient Solutions, Pioneer, and GRC.

6 15. At all relevant times, each Defendant acted individually and jointly with every
7 other named Defendant in committing all acts alleged in this Complaint.

8 16. At all relevant times, each Defendant acted (a) as a principal; (b) under express or
9 implied agency; or (c) with actual or ostensible authority to perform the acts alleged in this
10 Complaint on behalf of every other named Defendant.

11 17. At all relevant times, some or all Defendants acted as the agent of the others, and
12 all Defendants acted within the scope of their agency if acting as an agent of another.

13 18. At all relevant times, each Defendant knew or realized, or should have known or
14 realized, that the other Defendants were engaging in or planned to engage in the violations of law
15 alleged in this Complaint. Knowing or realizing that the other Defendants were engaging in such
16 unlawful conduct, each Defendant nevertheless facilitated the commission of those unlawful acts.
17 Each Defendant intended to and did encourage, facilitate, or assist in the commission of the
18 unlawful acts, and thereby aided and abetted the other Defendants in the unlawful conduct.

19 19. Defendants have engaged in a conspiracy, common enterprise, and common
20 course of conduct, the purpose of which is and was to engage in the violations of law alleged in
21 this Complaint. The conspiracy, common enterprise, and common course of conduct continue to
22 the present.

23 **JURISDICTION AND VENUE**

24 20. This Court has jurisdiction over Defendants because Defendants, by servicing and
25 collecting the federal student loans of California borrowers, intentionally availed themselves of
26 the California market so as to render the exercise of jurisdiction over Defendants by the
27 California courts consistent with traditional notions of fair play and substantial justice.

28 21. The violations of law alleged in this Complaint occurred in the County of San

1 Francisco and throughout California.

2 22. Venue is proper in this Court under Code of Civil Procedure section 395.5 because
3 Defendants' servicing and debt-collection activities included the San Francisco region and
4 therefore Defendants' liability arises in the County of San Francisco.

5 23. Venue is also proper in this Court under Code of Civil Procedure section 393,
6 subdivision (a), because violations of law that occurred in the County of San Francisco are a "part
7 of the cause" upon which the Plaintiff seeks the recovery of penalties imposed by statute.

8 **DEFENDANTS' BUSINESS PRACTICES**

9 24. Navient serviced and services federal student loans for hundreds of thousands of
10 borrowers living in California. Pioneer and GRC have also collected on numerous defaulted
11 federal student loans of borrowers living in California. Upon information and belief, Navient,
12 Pioneer, and GRC engaged in the business acts and practices described below when servicing and
13 collecting the federal student loans of California borrowers. The allegations in this Complaint
14 relate only to federal student loans. This Complaint does not allege misconduct related to
15 servicing and collecting private student loans.

16 **I. BACKGROUND ON FEDERAL STUDENT LOANS**

17 25. On November 8, 1965, President Johnson signed into law the Higher Education
18 Act of 1965 (20 U.S.C. § 1001 et seq.), which was intended "to strengthen the educational
19 resources of our colleges and universities and to provide financial assistance for students in
20 postsecondary and higher education." (Pub. L. No. 89-329, 79 Stat. 1219.) The 1972
21 reauthorization of the Higher Education Act expanded aid to students entering junior colleges as
22 well as trade schools and career colleges. (Pub. L. 92-318, 86 Stat. 235.)

23 26. As used in this Complaint, "federal student loans" refer to loans offered through
24 programs administered by the U.S. Department of Education ("ED"), including "direct loans"
25 under the William D. Ford Direct Student Loan Program and "guaranteed-insured loans" under
26 the FFEL Program. Federal student loans come in two main forms: subsidized and unsubsidized.
27 For subsidized loans, the government generally pays the interest while the borrower is in school.
28 For unsubsidized loans, the borrower must pay all of the interest.

1 27. Federal student loans have unique characteristics and features, including that (a)
2 they are primarily need-based and made to borrowers regardless of credit history, so that approval
3 is automatic if the student meets certain requirements; (b) their interest rate is capped by the
4 federal government; and (c) they offer borrowers a variety of repayment options.

5 28. Due to these features, borrowers typically access federal student loans before
6 private student loans. At the end of 2017, federal student loans made up over 80% of the student-
7 loan market.

8 29. The management or “servicing” of federal student loans is handled by private
9 entities, like Navient. Federal student-loan servicers handle a multitude of issues for borrowers,
10 including collecting payments, providing repayment options to borrowers, and facilitating loan
11 payoff.

12 30. Federal student loans come with a vast array of repayment options to fit a
13 borrower’s short-term and long-term financial situation. For instance, for borrowers experiencing
14 long-term or permanent financial difficulty who are unable to pay the standard monthly payments
15 under the original terms of the loan, Congress created income-driven repayment programs, which
16 can significantly reduce the borrower’s monthly payment.

17 **II. DEFENDANTS’ CONDUCT RELATED TO THE SERVICING OF FEDERAL STUDENT**
18 **LOANS**

19 **A. Navient Illegally Steers Federal Student-Loan Borrowers into**
20 **Inappropriate and Harmful Forbearances, Rather than Income-Driven**
21 **Repayment Plans**

22 31. When federal student-loan borrowers first enter repayment, they are assigned to or
23 select a specific repayment plan. Borrowers can change their repayment plan at any time,
24 including when they experience financial hardship or distress.

25 32. ED offers a number of repayment plans designed to help borrowers manage their
26 federal student-loan debt by making monthly payments more affordable. These repayment plans
27 include several income-driven repayment plans, such as Income-Based Repayment (“IBR”) and
28 Pay As You Earn Repayment (“PAYE”). Most federal student loans are eligible for at least one
income-driven repayment plan. The monthly payment under an income-driven repayment plan

1 depends on the borrower's income and family size and is intended to be more affordable for
2 borrowers who would struggle to make payments under a standard repayment plan. In some
3 circumstances, depending on a borrower's financial situation, he or she may pay as little as \$0 per
4 month when enrolled in one of these plans.

5 33. Most income-driven repayment plans offer additional benefits for federal student-
6 loan borrowers, especially borrowers experiencing long-term financial hardship. The following
7 examples are illustrative:

8 a. For borrowers with subsidized loans whose monthly payment amount does not
9 fully cover accrued interest, the federal government pays any unpaid interest that accrues on those
10 loans during the first three consecutive years of enrollment in the income-driven repayment plan.
11 This interest subsidy significantly benefits these borrowers because they generally have no
12 obligation to ever pay the unpaid interest that accrues during those three years. Because that
13 interest is paid in full by the federal government as it accrues, it is not added to the principal
14 balance of the loan, or "capitalized."

15 b. Borrowers who are enrolled in an income-driven repayment plan can also receive
16 forgiveness of the remaining balance of their federal student loan, either after making 20 to 25
17 years of qualifying payments for most income-driven repayment plans or ten years of qualifying
18 payments while employed in certain public-service professions.

19 34. Federal student loans are generally also eligible for forbearance, which is a short-
20 term, temporary postponement of payment. With forbearance, a borrower experiencing temporary
21 financial hardship or illness may be able to stop making payments or reduce his or her monthly
22 payment for a defined period of no more than 12 months at a time.

23 35. Navient's website states that forbearance is appropriate for borrowers experiencing
24 "a problem making on-time payments due to a temporary financial difficulty." The website also
25 states: "Forbearance is intended to help you out in times of temporary need."

26 36. Borrowers placed in forbearance face significant costs, including the accumulation
27 of unpaid interest and the capitalization of that unpaid interest to the principal balance of the loan.
28 In some cases, a loan in forbearance may be re-amortized, meaning the monthly payments are

1 recalculated, which can lead to an increase in the borrower’s monthly payment. These costs
2 generally increase the longer a borrower is in forbearance.

3 37. Long-term placement in forbearance can permanently increase the borrower’s
4 monthly payment after the forbearance period ends and increase the total amount the borrower
5 repays over the life of the loan. Forbearance is therefore unsuitable for borrowers experiencing a
6 long-term or chronic inability to make their monthly payments under a standard repayment plan.

7 38. Because income-driven repayment plans enable borrowers to avoid or reduce the
8 costs associated with forbearance, enrolling in these plans is usually a better option than
9 forbearance for borrowers facing long-term financial hardship.

10 39. ED publicly encourages borrowers to consult with their federal student-loan
11 servicer, such as Navient, to determine the best repayment option. For example, ED’s website
12 includes the following statements:

13 Although you may select or be assigned a repayment plan when you first begin repaying
14 your student loan, you can change repayment plans at any time—for free. [¶] Contact your
15 loan servicer if you would like to discuss repayment plan options or change your repayment
16 plan.¹

16 A loan servicer is a company that handles the billing and other services on your federal
17 student loan. The loan servicer will work with you on repayment plans and loan
18 consolidation and will assist you with other tasks related to your federal student loan. It is
19 important to maintain contact with your loan servicer. If your circumstances change at any
20 time during your repayment period, your loan servicer will be able to help.²

19 Before you apply for an income-driven repayment plan, contact your loan servicer if you
20 have any questions. Your loan servicer will help you decide whether one of these plans is
21 right for you.³

21 Always contact your loan servicer immediately if you are having trouble making your
22 student loan payments.⁴

22 Contact your loan servicer if you would like to discuss repayment plan options or change
23 your repayment plan.⁵

24 40. Navient also repeatedly and affirmatively encourages borrowers experiencing
25 financial hardship to contact Navient for help in evaluating their repayment options. For example,

26 ¹ <http://studentaid.ed.gov/sa/repay-loans/understand/plans>

27 ² <http://studentaid.ed.gov/sa/repay-loans/understand/servicers>

28 ³ <http://studentaid.ed.gov/sa/repay-loans/understand/plans/income-driven>

⁴ <http://studentaid.ed.gov/sa/repay-loans/deferment-forbearance>

⁵ <http://studentaid.ed.gov/sa/repay-loans/understand/plans>

1 Navient’s website currently displays the following statements, which invite borrowers to call for
2 guidance in finding long-term repayment solutions and promise that Navient will take specific
3 actions to help those borrowers:

4 [I]f you’re having trouble, there are options for assistance, including income-driven
5 repayment plans, deferment, forbearance, and solutions to help you avoid
6 delinquency and prevent default. . . . [¶] We can work with you to help you get back
7 on track, and are sometimes able to offer new or temporarily reduced payment
8 schedules. [¶] **Contact us at 800-722-1300 and let us help you make the right decision
9 for your situation.**⁶

10 If you’re experiencing problems making your loans [sic] payments, please contact us.
11 [¶] Our representatives can help you by identifying options and solutions, so you can
12 make the right decision for your situation.⁷

13 **Navient is here to help. [¶] We’ve found that, 9 times out of 10, when we can talk
14 to a struggling federal loan customer we can help him or her get on an
15 affordable payment plan and avoid default.**⁸

16 41. For years, Navient’s website has included other, similar statements and promises.
17 For example, its website previously stated that Navient was “committed to giving you the
18 information and tools you need to understand and evaluate your student loan payment options.
19 We can help you find an option that fits your budget, simplifies payment, and minimizes your
20 total interest cost.”

21 42. According to Navient’s written training materials, Navient representatives must
22 counsel struggling borrowers about income-driven repayment plans. For example, Navient’s call-
23 center training materials describe a scenario in which a borrower is frustrated because she was
24 told that there was no program that could assist her despite having explained “numerous times
25 that my financial situation does not provide me with enough income for basic survival needs.”
26 According to the training materials, the Navient representative should have asked additional
27 questions to identify all of the consumer’s options. For example, the representative should have
28 asked, “Am I to understand that your monthly payment is not manageable at this time? If
borrower states yes, we would try to qualify for an IBR [income-based repayment plan].”

⁶ <http://www.navient.com/loan-customers/postponing-payments/if-you-are-having-trouble>
(red in original)

⁷ <http://www.navient.com/loan-customers/postponing-payments/avoiding-default>

⁸ <http://www.navient.com/loan-customers/getting-started/successful-student-loan-borrowers>
(bold in original)

1 43. Navient’s training materials also emphasize the importance of offering repayment
2 options based on a borrower’s actual situation and working with the borrower to find a
3 “customized plan” that works with the borrower’s budget.

4 44. Navient’s written training materials stress that forbearance is a last resort. In a
5 manual entitled “Asset Performance Group: Repayment Options, Deferments & Forbearances,”
6 dated December 10, 2012, and revised February 3, 2014, Navient ranks the proper resolution
7 methods for a borrower’s federal-loan account as first “Payment/Repayment Options,” then
8 “Deferment,” and lastly, “Forbearance.”

9 45. The same manual outlines the terms of an income-driven repayment plan and
10 describes certain “triggers” for call-center representatives to provide a borrower with information
11 about that plan. For example, Navient identifies statements such as, “I’m on disability,” “I have a
12 limited income,” or “I will never be able to pay this off” as triggers that should prompt a
13 discussion about a borrower’s income-driven repayment options. Navient representatives
14 therefore knew that they were supposed to inform borrowers struggling with long-term financial
15 distress or hardship about alternative repayment plans.

16 46. In spite of these training-manual instructions, and despite publicly promising to
17 help borrowers identify and enroll in an appropriate, affordable repayment plan, Navient’s
18 representatives instead steered borrowers experiencing long-term distress or hardship into
19 forbearance. In some cases, Navient representatives failed to mention the availability of income-
20 driven repayment plans at all. Instead, representatives falsely and routinely told borrowers that
21 forbearance was the only option even after the borrowers had, over the span of several years,
22 repeatedly informed Navient that their income was insufficient to make their loan payments. In
23 other words, Navient affirmatively “steered” borrowers into harmful and inappropriate
24 forbearances, reducing Navient’s operational costs while causing serious financial harm to
25 borrowers.

26 47. Navient’s compensation policies for customer service representatives incentivized
27 this misconduct. Because of the number and complexity of income-driven repayment plans
28 available for federal student loans, a conversation about alternative repayment plans and the

1 borrower's financial situation is usually time consuming. Counseling a struggling borrower to
2 enroll in one of these plans often takes much longer for a Navient representative than simply
3 placing the borrower in a forbearance. Navient's compensation policies exacerbated the problem
4 by financially rewarding representatives for shorter average-call times. Representatives therefore
5 often rushed struggling borrowers into improper forbearances rather than engaging in the lengthy
6 and detailed conversations needed to adequately counsel and enroll them into an income-driven
7 repayment plan.

8 48. Navient used a comprehensive set of incentive-compensation plans for its
9 customer-service representatives and pre-default collections employees, including those who
10 made calls to California consumers. An incentive-compensation plan is a reward strategy that
11 compensates employees based on criteria other than pay for time worked. An incentive-
12 compensation plan is designed to supplement base pay and drive behaviors that align the
13 employee's interests with the strategy of the company.

14 49. Since at least 2011, Navient call-center representatives have operated under an
15 incentive-compensation plan that relies on three performance measures to determine eligibility for
16 bonus pay: (a) Average Handle Time; (b) First Call Resolution; and (c) Customer Satisfaction.

17 50. According to Navient's Vice President of Operational Support Services, "Average
18 Handle Time" represents the combined total of the time that a Navient representative spends on a
19 call with a borrower and the time it takes that representative to write up any notes and complete
20 administrative tasks related to that call. "First Call Resolution" represents the number of
21 borrowers who do not have to call back to get their questions addressed. "Customer Satisfaction"
22 represents the results of a survey conducted after the call where a borrower reports on how
23 satisfied he or she was with the representative's assistance. Navient takes all three metrics into
24 account when determining whether or not a representative is eligible for a bonus.

25 51. These three compensation metrics, including Average Handle Time, are directly
26 tied to Navient's operational costs. In a document entitled "Executive Overview: Call Center
27 Servicing Specialist ICP [Incentive Compensation Plan]," effective January 1, 2013 to December
28 31, 2013, Navient states as follows:

1 Across the entire ED Call Center, each 1% increase in FCR [First Call Resolution]
2 results in a 1% reduction in call volume and a \$100,000 reduction in annual costs (\$4
3 cost per call). Each 5 seconds of reduced AHT [Average Handle Time] results in a
4 1% improvement in productivity and a \$100,000 reduction in annual costs. Improved
5 CSAT [Customer Satisfaction] results in improved ED Scorecard results and
6 increased loan volume from the Department of Education.

7 52. To enroll in an income-driven repayment plan, borrowers must submit a paper or
8 online application along with certain income-tax documentation. Enrolling a borrower in these
9 plans can require multiple, lengthy conversations with a Navient representative, especially when
10 the borrower has questions or difficulty with the application process. In contrast, borrowers can
11 obtain a forbearance over the phone, usually in a matter of minutes, and without submitting any
12 paperwork. Placing borrowers in forbearance costs Navient less than enrolling them in an
13 income-driven repayment plan, and Navient incentivizes its employees to do so.

14 53. Due to the incentive structure described above, Navient representatives have
15 routinely failed and continue to fail to do what the company promised: counsel financially
16 distressed borrowers about the repayment options available to them and enroll them in the most
17 appropriate and affordable repayment plan for their particular financial situation.

18 54. Between January 1, 2010 and March 31, 2015, nearly 25% of Navient federal
19 student-loan borrowers who were ultimately enrolled in IBR with a \$0 monthly payment had been
20 placed in forbearance within the 12-month period immediately preceding that enrollment.
21 Similarly, during that same time period, 16% of borrowers who ultimately enrolled in PAYE with
22 a \$0 monthly payment had been placed in forbearance within the 12-month period immediately
23 preceding their enrollment. Navient placed the majority of borrowers who enrolled in an income-
24 driven repayment plan into forbearances more than three months prior to their enrollment in the
25 plan, indicating that Navient was not simply using the forbearances as a stop-gap to suspend
26 unaffordable payments while the borrowers' income-driven repayment applications were
27 pending.

28 55. By placing these borrowers into inappropriate forbearances before ultimately
enrolling them in an income-driven repayment plan with a \$0 payment, Navient delayed
borrowers' access to the benefits of these plans. Borrowers also suffered the unnecessary

1 capitalization of unpaid interest accrued during the forbearances, which they might have avoided
2 had they enrolled in the appropriate income-driven repayment plan from the start.

3 56. Between January 2010 and March 2015, the number of borrowers that Navient
4 placed into forbearance exceeded the number of borrowers enrolled in IBR. For example, in
5 December 2010, around 9% of borrowers with FFEL loans held and serviced by Navient were in
6 voluntary forbearance. Meanwhile, during that same month, less than 1% of borrowers with
7 FFEL loans were enrolled in IBR. Similarly, in December 2012, approximately 7% of Navient
8 borrowers with FFEL loans held and serviced by Navient were in voluntary forbearance, while
9 less than 2.25% of borrowers with the same loan type were enrolled in IBR. These statistics
10 include borrowers in California.

11 57. Navient also placed numerous borrowers into multiple consecutive forbearances,
12 even though the borrowers had clearly demonstrated a long-term inability to repay their loans. For
13 example, between January 1, 2010, and March 31, 2015, Navient placed over 1.5 million
14 borrowers nationwide, including borrowers in California, into two or more consecutive
15 forbearances totaling 12 months or longer. More than 470,000 of these borrowers were placed
16 into three or more consecutive forbearances, and more than 520,000 of them were placed into
17 four or more consecutive forbearances. For borrowers placed into three or more consecutive
18 forbearances, each such consecutive forbearance period lasted, on average, six months. Therefore,
19 as a result of Navient's steering practices, hundreds of thousands of borrowers were continuously
20 enrolled in forbearance for a period of two or three years, or more. These borrowers' long-term
21 inability to repay should have been increasingly apparent to Navient as each forbearance period
22 expired. By nevertheless continuing to place these borrowers into multiple consecutive
23 forbearances, Navient caused them significant financial harm.

24 58. Navient has an obligation to fulfill the promises on its website and adequately
25 counsel borrowers about all their repayment options. Instead, Navient affirmatively
26 misrepresented and continues to misrepresent struggling borrowers' options, steering them into
27 harmful and unnecessary voluntary forbearances, and deceptively concealing the long-term
28 financial harm that those unnecessary forbearances would cause.

1 **B. Navient Failed to Provide Proper Notice of the Procedure for and**
2 **Consequences of Not Recertifying Income-Driven Repayment Eligibility**

3 59. After enrolling in an income-driven repayment plan, each federal student-loan
4 borrower must certify his or her income and family size to qualify for an affordable payment
5 amount. The affordable payment amount expires after 12 months unless the borrower “recertifies”
6 his or her income and family size by submitting updated information and documentation.

7 60. Failure to timely recertify income and family size can lead to the following
8 negative consequences:

9 a. An immediate increase in the borrower’s monthly payment to the amount
10 dictated by a “standard” repayment plan;

11 b. The capitalization of unpaid interest into the principal balance of the loan;

12 c. For subsidized loans in the first three years of enrollment in an income-
13 driven repayment plan, the loss of an interest subsidy from the federal government for each
14 month until the borrower renews his or her enrollment; and

15 d. Delayed progress towards loan forgiveness.

16 61. When a borrower first enrolls in an income-driven repayment plan, Navient sends
17 an “initial disclosure notice,” which identifies the beginning and end dates of enrollment. The
18 notice also promises borrowers, “You’ll be notified in advance when your loan(s) is up for
19 renewal for the IBR plan. At that time, you’ll be provided with a date to submit a new
20 application.” The notice does not itself list a specific renewal deadline.

21 62. The “initial disclosure notice” also outlines certain potential consequences if
22 borrowers “choose not to renew” or “request to leave the plan,” including the recalculation of the
23 borrower’s monthly payment amount and capitalization of unpaid interest into the principal
24 balance of the loan. The notice does not warn the borrower about the potential consequences of
25 failing to timely submit a renewal application or of submitting an incorrect or incomplete
26 application.

27 63. Despite the promise in the “initial disclosure notice” to provide a renewal deadline,
28 between at least January 2010 and mid-December 2012, Navient’s annual income-driven

1 repayment renewal notices sent through U.S. mail failed to state a date by which borrowers had to
2 submit their recertification paperwork. Instead, Navient’s pre-December 2012 mailed notices
3 stated vaguely that the borrower’s income-driven repayment period would “expire in
4 approximately 90 days” and that the “renewal process may take at least 30 days.” In other words,
5 Navient broke its promise to give borrowers a specific deadline for submitting their renewal
6 application and supporting documentation of income to avoid expiration of the 12-month period.

7 64. Reasonable borrowers cannot, based on this notice, determine the deadline by
8 which they must submit the required package in order to timely recertify enrollment in their
9 income-driven repayment plans. The statement that the “renewal process may take at least 30
10 days” is qualified twice—with the terms “may” and “at least.” Navient therefore obscures how
11 long the recertification process is actually likely to take or even the maximum number of days the
12 process could take. Navient’s statement that a borrower’s plan will expire in “approximately 90
13 days” is likewise unhelpful. Navient provides no date from which the borrower could count
14 backwards to calculate the deadline. Even with such a date, the deadline would only be
15 “approximate[.]”

16 65. Finally, the notice conceals from borrowers the likely consequences of failing to
17 timely submit their recertification application. The notices state that failure to timely submit, such
18 as providing incorrect or incomplete information, will result in a “delay.” This falsely suggests
19 that the only consequence of failing to timely submit is a “delay” in the renewal “process,” and
20 that as long as the deficiencies were rectified, no other consequences would result. This was false.

21 66. By 2015, more than 75% of Navient’s federal student-loan borrowers consented to
22 receiving electronic communications. These borrowers were to receive electronic renewal notices
23 instead of notices by mail.

24 67. Between at least mid-2010 and March 2015, however, Navient did not actually
25 send the electronic renewal notice by email. Instead, Navient sent an email directing borrowers to
26 access the notice separately through a website. Notably, neither the subject line of the email nor
27 its contents provided any indication of the purpose or importance of the notice. From at least
28 January 1, 2010, through November 15, 2012, the subject line of the email simply read: “Your

1 Sallie Mae Account Information.” Likewise, from at least November 16, 2012, through March 18,
2 2015, the subject line of the email was, “New Document Ready to View.” And as recently as
3 August 9, 2017, the subject line of the email was, “Your Navient account information,” with the
4 body of the email stating only that “A new education loan document is available online. Please
5 log in to your account to view it.”

6 68. To access the notice, borrowers had to follow a hyperlink in the email, log in to
7 Navient’s secure website with their user ID and password, and open an electronic version of the
8 same renewal notice that Navient sent other borrowers via U.S. mail.

9 69. Tellingly, during the same time period, Navient’s email notices seeking payments
10 through these same electronic communications did not suffer from these defects. In contrast with
11 the deceptive renewal-notice emails described above, Navient’s payment-request emails clearly
12 informed borrowers of the nature and importance of the communication. For example, the subject
13 line of one such email was “Your Sallie Mae – Department of Education Statement is Available,”
14 and the body of the email stated “Your monthly statement is now available. Please log in to your
15 account at Sallie Mae.com to view and pay your bill.” Another email about loan terms had the
16 subject line “Change in Loan Terms,” with body text stating, “The payment term for your loan(s)
17 has changed. Please log in to your account to view the document with your updated payment
18 schedule.” When Navient sought money from borrowers, it crafted straightforward and
19 informative email communications. But when tasked with helping financially distressed
20 borrowers recertify their eligibility for income-driven repayment, Navient’s representations were
21 vague and deceptive.

22 70. Navient has the ability to track the number of borrowers who click on the
23 hyperlinks contained in the company’s emails. Navient therefore knew or should have known that
24 borrowers often did not click on the recertification hyperlink described above and, as a result,
25 never saw the electronic renewal notices on its website.

26 71. During the period of Navient’s deficient email notices, a large percentage of
27 Navient’s federal student-loan borrowers did not timely recertify their plan enrollment in income-
28 driven repayment. For example, between January 2015 and March 2015, the percentage of

1 Navient’s federal student-loan borrowers who did not timely recertify—and suffered the negative
2 consequences described above—regularly exceeded 60%. Navient was aware of this.

3 72. Beginning in or around March 2015, Navient attempted to improve its email
4 notices. The email subject line said, “Your Payment Will Increase Soon!” The text of the email
5 stated, “in order to keep your lower payment amount, it’s important that you apply soon to renew
6 your repayment plan.” After these changes, Navient’s recertification rate more than doubled.
7 Despite knowing that the improved notice emails result in improved recertification rates, even up
8 to August 9, 2017, Navient nonetheless still sometimes sent email notices with the deficient and
9 deceptive information.

10 **C. Navient Misrepresented Its Method for Applying Payments to Borrowers’**
11 **Loans**

12 73. Navient affirmatively misrepresents its payment-application method to borrowers.
13 As a loan servicer, one of Navient’s primary functions is to process borrowers’ monthly
14 payments. Payment processing includes properly allocating each payment to accrued interest,
15 principal balance, and fees due at the time of the payment. Navient deceived borrowers about how
16 it allocated payments.

17 74. In a standard repayment plan (i.e., not income-driven), a borrower’s monthly
18 payment amount is calculated to pay down the borrower’s loan on an amortized basis across a
19 fixed term, with each monthly payment covering some combination of principal, interest, and
20 fees. Interest is calculated as a percentage of the unpaid principal amount borrowed and accrues
21 daily, meaning a borrower technically owes some new outstanding interest every day of the
22 month other than the due date itself. This daily accrual method is disclosed in the initial
23 promissory note that borrowers sign when they take out the loan (usually months or years before
24 borrowers enter repayment) but is not commonly known or understood by most borrowers.

25 75. Since interest is a percentage of the unpaid principal amount borrowed, a lower
26 principal amount means that the amount of interest is also lower. Thus, borrowers can decrease
27 the lifetime cost of their loan if they pay the principal balance down ahead of their amortization
28 schedule. To do so, borrowers can submit a monthly payment that exceeds the amount due or

1 submit an extra payment in between their regular monthly payments.

2 76. Navient encouraged borrowers to pay down their principal balances with the
3 following statements, which were printed on the back of every paper bill Navient sent to federal
4 student-loan borrowers:

5 **What happens if I pay more than my monthly payment?** We offer two options
6 when it comes to allocating additional payments to your loan(s): applying it toward
7 your principal balance and applying it toward your next payment due. Regardless of
8 either option you choose, there's no penalty for making an additional payment or
9 paying more than your minimum monthly payment.

10 **Applying Extra Payments Toward your Principal Balance:** If you pay more than
11 your minimum monthly payment due, and choose to have the extra funds applied
12 toward your principal balance, you'll reduce the total amount of interest you'll pay
13 because less interest will accrue on your lower outstanding principal balance. By
14 choosing this option, your due date will not change and your regular monthly
15 payment will still be due the following month.

16 77. On or around October 2013, Navient changed the language printed on the back of
17 every paper bill that Navient sent to federal student-loan borrowers, but nonetheless still
18 encouraged borrowers to pay down their principal balances:

19 **If my account is current, what happens if I pay more than my monthly
20 payment?** When you pay more than your minimum payment, the extra funds will
21 be applied to your balance. If the extra funds are less than the amount of your next
22 month's payment, your next payment will not be reduced and will be due as usual.
23 If the extra funds are equal to or more than the amount of your next month's
24 payment, we will advance your payment due date by the number of full payments
25 that are covered by the extra funds. For example, if the extra funds are equal to four
26 additional monthly payments, you would not have another payment due for four
27 months.

28 You have the option to instruct us to not advance your due date. Not advancing
your due date may result in a shorter repayment term, less interest accruing on your
loan, and a lower total cost of repaying your loan as compared to your due date
being advanced.

78. Similarly, in letters sent to borrowers to provide information about interest accrual
and how payments are applied when borrowers pay ahead, Navient made the following
statements:

Applying Extra Payments Toward Your Principal Balance

If you pay more than your minimum monthly payment due, and choose to have the
extra funds applied toward your principal balance, you'll reduce the total amount of
interest you'll pay because less interest will accrue on your lower outstanding
principal balance. By choosing this option, your due date will not change and your

1 regularly monthly payment will still be due the following month.

2 **Applying Extra Payments Toward Your Next Payment Due**

3 If you pay more than your minimum monthly payment due (enough to fully satisfy
4 one or more of your upcoming scheduled monthly payments), and choose to have
5 the extra funds applied toward your next payment(s) due, a payment will not be due
6 until the due date specified on your next billing statement, which may not be
7 generated until your next payment due date (depending on your notification
8 settings). By choosing this option, your due date will be pushed ahead one month
9 for every monthly payment you satisfy with the extra funds; however, interest will
10 continue to accrue.

11 If you pay more than your minimum monthly payment due, but not enough to
12 satisfy the next month's payment, the extra funds will automatically go toward your
13 principal balance and next month's regularly scheduled payment will still be due.

14 There's no penalty for making an additional payment or paying more than your
15 minimum monthly payment. In fact, by doing either of the two options mentioned
16 above, you'll save yourself money in the long run.

17 79. Navient's statements misrepresented its method for applying excess payments to a
18 borrower's loan. Despite using broad language such as "Applying Extra Payments Toward Your
19 Principal Balance," Navient does not tell borrowers that this language applied only to one date:
20 the date the borrower's monthly payment was due. Rather than applying the excess payment to
21 borrower's principal balance, Navient applies all payments according to a strict waterfall method:
22 first to fees, then to interest, and lastly to principal. If a borrower submits an extra payment on a
23 day other than the day on which his or her usual monthly payment is due, the extra payment is
24 applied first to whatever fees and interest have accrued up to the day the payment was processed,
25 as opposed to being applied exclusively to principal balance.

26 80. By applying the excess payments first toward accrued fees and interest, rather than
27 exclusively to principal balance, borrowers do not reduce their principal amount by the amount
28 reasonably expected and as Navient represented to them.

29 **D. Navient Misrepresents the Amount Needed to Bring Delinquent
30 Borrowers' Loans Current**

31 81. Navient begins collection calls as soon as borrowers are past due on their account.
32 But instead of attempting to collect the amount required to bring the account current, Navient
33 instructs its representatives to demand the "Present Amount Due." This amount deceptively
34 includes both "the amount due plus the next monthly payment." Navient does not disclose to
35

1 borrowers that Present Amount Due includes both payments and intentionally conceals the fact
2 that borrowers can actually pay a lower amount to bring their accounts current.

3 82. Navient’s training manuals explain to call-center representatives that Present
4 Amount Due is “[t]he first repayment hierarchy quote given to a borrower or co-signer on the
5 phone.” The manual depicts its payment hierarchy as a pyramid, prompting representatives to
6 demand payment amounts in the following order: (a) “Present Amount Due Plus Late and Other
7 Fees”; (b) “Present Amount Due”; (c) “Amount Delinquent Plus Late and Other Fees”; (d)
8 Amount Delinquent”; (e) “Postdates to equal above amounts by end of month”; and (f) “Monthly
9 Payment.” The manual explains that “the next payment is included in present amount due,”
10 whereas the “am[ount] delinq[uent] is the amount currently due on the account.” The manual also
11 instructs representatives “to always quote Present Amount Due (PAD) plus fees first.”

12 83. Similarly, a June 2013 internal coaching document explains to representatives
13 that, “The goal of every call is to, in an *assumptive* manner, ask for and collect the Present
14 Amount Due.” The coaching document then instructs representatives on how to avoid revealing
15 to the borrower that they can pay the lower amount actually due:

16 **Tips on how to negotiate the highest amount possible[.]** After asking the customer
17 for the highest amount needed, in an assumptive manner, don’t be too quick to
18 negotiate down. If the customer initially objects to paying the Present Amount Due,
19 the next question should *not* be, ‘Are you in position [sic] to pay the Past Due
20 Amount.’ Try to avoid sounding like you’re following a checklist by continuously
21 dropping to a lesser amount each time the borrower objects to a certain amount. We
22 should ask questions like, ‘How long will it take you to pay the Present Amount
23 Due?’, or “How short from this amount are you?” When the customer mentions him
24 or her not being in position [sic] to pay the Present Amount Due, as opposed to
25 dropping to a lesser amount, the collector should “upsell” and offer to split this
26 payment amount up.

27 84. Misrepresenting that borrowers owe the Present Amount Due rather than the
28 Amount Delinquent makes a material difference to the average borrower, and Navient’s own
training materials illustrate why. The training manual shows a fictional borrower who, as of
September 10, is nine days delinquent in the amount of \$23.40. Nevertheless, Navient’s manual
instructs representatives to inform the borrower that her Present Amount Due on September 10 is
\$789.64—an amount that includes her next monthly payment of \$744.24 due on October 1. As
this example demonstrates, Navient’s practice of demanding the Present Amount Due can result

1 in a borrower paying hundreds of dollars weeks before that money is actually due, and weeks
2 before the borrower may have budgeted for it.

3 85. Navient trains its representatives to deceptively describe the Present Amount Due,
4 misleading borrowers into thinking the amount includes only their past due balance. Notably,
5 while Navient sometimes instructs its representatives to disclose that the Present Amount Due
6 includes late fees, it never instructs them to inform borrowers that they are also being asked for
7 their next month's payment. For example, Navient's Present Amount Due training scripts read:

8 Mary, I am showing there is currently an amount that is *due today* on your student
9 loan of \$1,500. Will you be paying this with a check, debit, or credit card?

10 Your account is currently XX months *past due*. The present amount due is \$XXX.xx.
11 How will you be taking care of this today, check, credit or debit?

12 Ms. Smith, I am showing there is currently an amount that is *due today* on your
13 student loan of \$1,500 plus a \$25 late fee. Will you be paying this today with a check,
14 debit or credit card?

15 Mr./Mrs. ____ I see that your account is currently XX days *past due* with a present
16 amount due of \$xx.xx which includes any unpaid late fees. How will you be taking
17 care of this today, check, credit or debit?

18 I am calling today to advise of that your present amount due is _____, and you have
19 a late charge of, _____. How would you like to make that payment today, check,
20 credit, or debit.

21 86. Navient instructs its representatives that "the negotiation process will begin" only
22 after it becomes clear that a borrower cannot pay the full Present Amount Due. Training materials
23 warn representatives to "negotiate the highest amount possible" and avoid being "too quick to
24 negotiate down" from the Present Amount Due.

25 87. Scripts and call flow charts make clear that Navient representatives demand the
26 Present Amount Due on every outgoing and inbound call with every delinquent borrower.
27 Training documents describe collecting the "present amount due" as the "goal" or "purpose" of
28 every interaction on an outbound or inbound call with a delinquent borrower. Another training
document requires representatives to follow the scripting "verbatim on all borrower contacts."

88. Navient's incentive-compensation structure (discussed above) reinforces the
objective of collecting the maximum amount immediately. One Navient training document states,
"Successfully collecting the Present Amount Due with payment arrangements effective today is

1 the highest incentive tier available and thus, the best use of yours and the borrower's time." And
2 representatives can receive an "infraction" if they fail to engage in "due diligence"—that is,
3 demanding the Present Amount Due and resisting attempts by borrowers to pay "only" the
4 amount delinquent.

5 89. Upon information and belief, Navient's representatives follow the training
6 manuals and respond to these incentives by consistently requesting the Present Amount Due
7 instead of only the amount required to bring borrowers current. Call-center representatives do not
8 explain that Present Amount Due includes the next month's payment, which in most cases is not
9 due immediately on the day of the call.

10 90. Upon information and belief, even when a borrower does discover that the Present
11 Amount Due is more than they currently owe and offers payment for the lower amount actually
12 due, Navient often still demands the full Present Amount Due and resists the borrower's attempts
13 to pay "merely the amount delinquent" over the phone.

14 91. Upon information and belief, borrowers who pay the Present Amount Due do not
15 understand that they can pay a lower amount to clear the delinquency on their account. Borrowers
16 whom Navient convinces to pay the Present Amount Due using a credit card may end up paying
17 more in interest on the credit card balance taken out to cover their next month's payment than
18 they would have paid on the loan had they waited until the payment's scheduled due date.
19 Additionally, causing borrowers to shift debt to their credit card balances can harm borrowers'
20 credit scores.

21 92. In sum, Navient deceptively represents to delinquent borrowers that the Present
22 Amount Due is the amount required to bring their accounts current, when in fact, it includes both
23 the past due amount required to bring them current plus their next monthly payment. This practice
24 harms Navient borrowers who are induced into making larger payments earlier than necessary.

25 **E. Navient Improperly Reported Total and Permanent Disability Discharges**
26 **to Consumer Reporting Agencies as Defaults**

27 93. As a student-loan servicer, Navient routinely furnishes information about its
28 student-loan accounts to consumer reporting agencies.

1 94. ED allows borrowers with a “total and permanent disability” to have their federal
2 loans discharged, relieving them of any obligation to pay the loans. (12 C.F.R. § 685.213.) These
3 include loans held by veterans whom the U.S. Department of Veterans Affairs has determined are
4 unemployable because of disabilities connected to their military service. (*Id.*, § 685.213(c).)

5 95. In 2006, ED issued guidance regarding appropriate credit reporting when a loan is
6 discharged. That guidance instructs that, when a non-defaulted loan is discharged due to a
7 borrower’s total and permanent disability, servicers should use only reporting code “05” and a
8 payment rating code applicable to the status of the loan. The instructions also indicate that the
9 reporting code “AL” (signaling that the loan is being “assigned to the government”) may be used
10 (a) only by schools holding Perkins loans, not by servicers, and (b) only when the loan is in a
11 default status prior to being discharged due to the disability of the borrower.

12 96. Consistent with the instructions from ED, the operative credit-reporting guide,
13 issued by the Consumer Data Industry Association in 2012, contains a section on “Total and
14 Permanent Disability Discharge Procedures” for student loans. That section authorizes only the
15 use of the reporting code “AL” for defaulted Perkins loans (which again are held only by schools,
16 not by servicers such as Navient).

17 97. From at least October 2012 until approximately June 2014, Navient improperly
18 used the “AL” reporting code to report loans that had been discharged due to the borrower’s total
19 and permanent disability, despite the fact that Navient is not an educational institution that holds
20 Perkins loans, and that some of the borrowers who received a loan discharge due to a total and
21 permanent disability had not defaulted.

22 98. Navient’s incorrect credit reporting regarding loans that had been discharged due
23 to the borrower’s total and permanent disability was both inaccurate and harmful. Navient should
24 have used a different reporting code available specifically to servicers responsible for non-
25 defaulted loans discharged due to a borrower’s total and permanent disability. Navient’s
26 misreporting made it appear that some borrowers had defaulted, when, in fact, these borrowers
27 had not defaulted and their loans had been discharged due to a total and permanent disability.

28 99. Navient’s use of the wrong reporting code erroneously and negatively impacted

1 the credit reports of borrowers that received a discharge based on a total and permanent disability
2 but who had not defaulted on their loans. Navient was well aware of the severe harms that would
3 result from negative credit reporting. For example, Navient’s website warns: “Defaulting on your
4 federal or private loans may result in serious consequences that might lead to a long lasting and
5 harmful impact to you as the borrower or cosigner.”

6 **III. DEFENDANTS’ CONDUCT RELATED TO THE DEBT COLLECTION OF FEDERAL**
7 **STUDENT LOANS**

8 100. Despite the availability of income-driven repayment plans, a significant number of
9 federal student loans, including those owed by California borrowers, go into default. A federal
10 loan is generally considered in default after 270 days of non-payment, at which point the servicer
11 sends the loan to a private debt collector. These private collection agencies, which include
12 Pioneer and GRC, Navient’s wholly owned subsidiaries, contract with ED’s office of Federal
13 Student Aid to collect federal student loans originated under the Direct Loan and FFEL Programs.

14 101. Borrowers who default on their federal student loans have a right to participate in
15 certain programs which, under specific conditions, can return their loans to a non-default
16 repayment status. In particular, borrowers may “rehabilitate” or “consolidate” their defaulted
17 loans. In some instances, borrowers may have their loans discharged in their entirety because of a
18 disability or due to problems with the school they attended.

19 102. The student-loan debt-collection system has been plagued by problems involving
20 private collectors’ conduct. In March 2014, for instance, the Government Accountability Office
21 noted significant problems with private collection agencies including, “providing borrowers with
22 inaccurate or misleading information about rehabilitation-program requirements and options.” In
23 2015, ED terminated its contract with Pioneer after finding that Pioneer had made materially
24 inaccurate statements while enrolling borrowers in the federal loan-rehabilitation program.
25 Undersecretary Ted Mitchell explained the termination by stating that federal borrowers “are
26 entitled to accurate information as they make critical choices to manage their debt . . . Every
27 company that works for the Department must keep borrowers’ best interests at the heart of their
28 business practices by giving borrowers clear and accurate guidelines.”

1 **A. Pioneer and GRC Misrepresented the Credit-Reporting Benefits of**
2 **Rehabilitating a Defaulted Federal Student Loan**

3 103. When borrowers are in a normal repayment status on their federal student loans,
4 they have a related tradeline on their credit report. If a borrower ceases making payments,
5 eventually he or she enters default status, prompting the addition of a new and separate default
6 tradeline to his or her credit report. Accordingly, a borrower in default has two tradelines related
7 to his or her student loan: (a) one reflecting the late payments and delinquencies leading up to
8 default (the “original tradeline”); and (b) another reflecting the default itself (the “default
9 tradeline”).

10 104. Certain defaulted federal student-loan borrowers have the option of restoring their
11 loans to good standing through “rehabilitation,” in which the borrower agrees to make a series of
12 timely payments calculated to fit his or her financial circumstances. Rehabilitation restores a
13 defaulted Direct Loan or FFEL loan to good standing once the borrower makes nine voluntary,
14 reasonable, and affordable payments received within 20 days of each due date within a ten-month
15 period.

16 105. Once a borrower completes the rehabilitation program, the owner of the loan
17 removes the default tradeline from the borrower’s credit report. The original tradeline reflecting
18 the pre-default delinquency is not removed.

19 106. ED instructs debt collectors, including Pioneer, not to state or imply to borrowers
20 that the information related to the original tradeline showing late and delinquent payments
21 reported will be removed from the borrower’s credit report as a result of rehabilitation.
22 Specifically, the manual for private collection agencies furnished by ED to debt collectors
23 instructs: “Adverse information reported by the original lender will not be expunged or excluded
24 from credit reports before the 7-year period that runs from the lender’s report of that default, even
25 if the loan is rehabilitated.”

26 107. Pioneer ignored this instruction. From at least January 2012 through December
27 2014, Pioneer collectors told or implied to borrowers that all negative information—including
28 pre-default delinquencies—would be removed from their credit reports after rehabilitation.

1 108. Pioneer’s call scripts used between at least 2012 and 2014 instructed
2 representatives to say: “After all payments are made, a new lender will pay off the Department of
3 Education for you. You will then in turn owe the new lender, which means you will no longer be
4 in Federal Default. . . . Also it will be completely deleted from your credit report as though it
5 never happened.” Pioneer made similarly deceptive representations in written collection letters,
6 promising borrowers that, after rehabilitation, “[n]egative credit remarks reported for the
7 rehabilitation loan(s) will be removed from your credit history.” GRC collection letters included
8 the same deceptive language.

9 109. In fact, rehabilitation does not erase all negative information related to borrowers’
10 defaulted loans. The original tradeline, reflecting a serious delinquency, remains on a borrower’s
11 credit report after rehabilitation.

12 **B. Pioneer Misrepresented the Impact of Rehabilitating Defaulted Federal**
13 **Student Loans on Collection Fees**

14 110. After a borrower defaults on a federal student loan, collection fees are calculated
15 based on a formula of about 25% of the outstanding principal and interest.

16 111. When a borrower makes a rehabilitation payment, the collector utilizes a portion of
17 the payment to satisfy collection fees and applies the rest to the loan’s outstanding interest and
18 principal. For example, out of a \$50 payment, about 20%, or \$10, is used to satisfy collection fees
19 and the remaining \$40 is applied towards the defaulted principal and interest.

20 112. After the borrower submits his or her ninth rehabilitation payment, ED waives any
21 remaining collection fees. But the borrower does not recover the collection fees paid as a part of
22 each rehabilitation payment.

23 113. Pioneer’s scripts reveal that Pioneer improperly told borrowers that *all* collection
24 fees would be waived or “removed at the time of sale.” These statements created the net
25 impression that borrowers who rehabilitate their loans pay no collection fees when, in reality,
26 borrowers do pay a portion of those fees with each rehabilitation payment.

27 **C. Pioneer Misrepresented the Requirements for Discharge Due to Total and**
28 **Permanent Disability**

 114. From at least 2012 to 2014, Pioneer made false statements to borrowers about the

1 requirements for obtaining a disability-related discharge of a federal loan.

2 115. At all times relevant to this complaint, a federal student-loan borrower could
3 obtain a “total and permanent disability discharge” (12 C.F.R. § 685.213) if the borrower was
4 “unable to engage in any substantial gainful activity by reason of a medically determinable
5 physical or mental impairment that (i) can be expected to result in death; (ii) has lasted a
6 continuous period of not less than 60 months; or (iii) can be expected to last for a continuous
7 period of not less than 60 months.” (12 C.F.R. § 685.102(b).) Substantial gainful activity means a
8 “level of work performed for pay or profit that involves doing significant physical or mental
9 activities or a combination of both.” (*Ibid.*) In other words, work is not prohibited entirely.

10 116. Pioneer ignored this standard. According to Pioneer’s internal instruction manuals
11 from 2012 to 2014, if a borrower told a collector that she received Social Security Insurance or
12 Social Security Disability Insurance, collectors asked the borrower whether she was 100%
13 disabled and never able to work again—a standard that applicable federal law does not require.
14 Upon information and belief, Pioneer’s application of this incorrect standard delayed or prevented
15 eligible disabled borrowers from discharging their federal student loans.

16 117. By holding borrowers to an inaccurate and unduly restrictive discharge standard,
17 Pioneer obstructed borrowers from obtaining a discharge to which they might have been entitled.

18 **CLAIM 1**

19 **VIOLATIONS OF BUSINESS AND PROFESSIONS CODE SECTION 17200**

20 **(Unfair Competition in Servicing of Federal Student Loans)**

21 118. The People reallege and incorporate by reference each of the paragraphs above as
22 though fully set forth herein.

23 119. Navient has engaged in, and continues to engage in, acts or practices that
24 constitute unfair competition as defined in Business and Professions Code section 17200. These
25 acts or practices include, but are not limited to, the following:

- 26 a. Misrepresenting that Navient will counsel borrowers about their repayment
27 options, when in fact, little to no counseling, or deceptive counseling, actually occurs;
- 28 b. Misrepresenting to borrowers the repayment options available to them;

1 c. Steering borrowers who express a long-term inability to repay into
2 forbearances (including misrepresenting that forbearance was the borrower's best or only option),
3 when, in fact, a forbearance is intended only for a temporary hardship;

4 d. Misrepresenting to borrowers that Navient will provide a date certain by
5 which a borrower must submit materials to timely recertify an income-driven repayment plan
6 when, in fact, no such date is provided;

7 e. Misrepresenting to borrowers the consequences of their failure to timely
8 recertify an income-driven repayment plan; and

9 f. Misrepresenting to borrowers that Navient will apply payments according
10 to borrowers' instructions;

11 g. Misrepresenting to delinquent borrowers that the "Present Amount Due" is
12 the amount required to bring the borrower's account current when, in fact, the "Present Amount
13 Due" is the past-due amount plus the next monthly payment;

14 h. Violating 12 C.F.R. § 1022.42(a) by failing to establish and implement
15 reasonable written policies and procedures regarding the accuracy and integrity of information
16 that Navient furnishes to consumer reporting agencies relating to borrowers who have received a
17 discharge of their federal student loans due to total and permanent disability; and

18 i. Violating Business and Professions Code section 17500 et seq., as alleged
19 in Claim 3.

20 CLAIM 2

21 VIOLATIONS OF BUSINESS AND PROFESSIONS CODE SECTION 17200

22 (Unfair Competition in Debt Collection of Federal Student Loans)

23 120. The People reallege and incorporate by reference each of the paragraphs above as
24 though fully set forth herein.

25 121. Pioneer has engaged in, and continues to engage in, acts or practices that constitute
26 unfair competition as defined in Business and Professions Code section 17200. These acts or
27 practices include, but are not limited to, the following:

28 a. Misrepresenting to borrowers that rehabilitation will erase a defaulted loan

1 from a borrower's credit report, when, in fact, some negative payment history may remain; and

2 b. Violating Business and Professions Code section 17500 et seq., as alleged
3 in Claim 4.

4 122. GRC has engaged in, and continues to engage in, acts or practices that constitute
5 unfair competition as defined in Business and Professions Code section 17200. These acts or
6 practices include, but are not limited to, the following:

7 a. Misrepresenting to borrowers that rehabilitation will erase a defaulted loan
8 from a borrower's credit report when, in fact, some negative payment history may remain;

9 b. Misrepresenting to borrowers that Pioneer would waive all collection fees
10 if a borrower successfully rehabilitates his or her loan when, in fact, the borrower pays fees out of
11 each rehabilitation payment and not all fees are actually waived;

12 c. Misrepresenting to borrowers that to qualify for "total and permanent
13 disability discharge," the borrower must be 100% disabled and never able to work again when, in
14 fact, that is not the proper standard for this discharge; and

15 d. Violating Business and Professions Code section 17500 et seq., as alleged
16 in Claim 4.

17 CLAIM 3

18 VIOLATIONS OF BUSINESS AND PROFESSIONS CODE SECTION 17500

19 (False or Misleading Statements in Servicing of Federal Student Loans)

20 123. The People reallege and incorporate by reference each of the paragraphs above as
21 though fully set forth herein.

22 124. Navient has engaged in, and continues to engage in, acts or practices that
23 constitute violations of Business and Professions Code section 17500 et seq., by making or
24 causing to be made untrue or misleading statements concerning services performed by Navient.
25 Navient's untrue or misleading representations include, but are not limited to, the following:

26 a. Misrepresenting that Navient will counsel borrowers about their repayment
27 options when, in fact, little to no counseling, or deceptive counseling, actually occurs;

28 b. Misrepresenting to borrowers the repayment options available to them;

1 c. Misrepresenting to borrowers that forbearance was the borrower's best or
2 only option when, in fact, a forbearance is intended only for a temporary hardship;

3 d. Misrepresenting to borrowers that Navient will provide a date certain by
4 which a borrower must submit materials to timely recertify an income-driven repayment plan
5 when, in fact, no such date is provided;

6 e. Misrepresenting to borrowers the consequences of their failure to timely
7 recertify an income-driven repayment plan;

8 f. Misrepresenting to borrowers that Navient will apply payments according
9 to borrowers' instructions; and

10 g. Misrepresenting to delinquent borrowers that the "Present Amount Due" is
11 the amount required to bring the borrower's account current, when in fact, the "Present Amount
12 Due" is the past-due amount plus the next monthly payment.

13 125. At the time these representations were made, Navient knew or by the exercise of
14 reasonable care should have known that these representations were untrue or misleading.

15 **CLAIM 4**

16 **VIOLATIONS OF BUSINESS AND PROFESSIONS CODE SECTION 17500**

17 **(False or Misleading Statements in Debt Collection of Federal Student Loans)**

18 126. The People reallege and incorporate by reference each of the paragraphs above as
19 though fully set forth herein.

20 127. Pioneer has engaged in, and continues to engage in, acts or practices that constitute
21 violations of Business and Professions Code section 17500 et seq., by making or causing to be
22 made untrue or misleading statements concerning services performed by them. Pioneer's untrue
23 or misleading representations include, but are not limited to, misrepresenting to borrowers that
24 rehabilitation will erase a defaulted loan from a borrower's credit report, when, in fact, some
25 negative payment history may remain;

26 128. GRC has engaged in, and continues to engage in, acts or practices that constitute
27 violations of Business and Professions Code section 17500 et seq., by making or causing to be
28 made untrue or misleading statements concerning services performed by them. GRC's untrue or

1 misleading representations include, but are not limited to, the following:

2 a. Misrepresenting to borrowers that rehabilitation will erase a defaulted loan
3 from a borrower's credit report when, in fact, some negative payment history may remain;

4 b. Misrepresenting to borrowers that Pioneer would waive all collection fees
5 if a borrower successfully rehabilitates his or her loan when, in fact, the borrower pays fees out of
6 each rehabilitation payment and not all fees are actually waived; and

7 c. Misrepresenting to borrowers that to qualify for "total and permanent
8 disability discharge," the borrower must be 100% disabled and never able to work again when, in
9 fact, that is not the proper standard for this discharge.

10 129. At the time these representations were made, Pioneer and GRC knew or by the
11 exercise of reasonable care should have known that these representations were untrue or
12 misleading.

13 **PRAYER FOR RELIEF**

14 Wherefore, the People pray for judgment as follows:

15 1. That Defendants, their successors, agents, representatives, employees, assigns, and
16 all persons who act in concert with them be permanently enjoined from engaging in unfair
17 competition as defined in Business and Professions Code section 17200, including, but not
18 limited to, the acts and practices alleged in this Complaint, under the authority of Business and
19 Professions Code section 17203;

20 2. That Defendants, their successors, agents, representatives, employees, assigns, and
21 all persons who act in concert with them be permanently enjoined from making any untrue or
22 misleading statements in violation of Business and Professions Code section 17500, including,
23 but not limited to, the untrue or misleading statements alleged in this Complaint, under the
24 authority of Business and Professions Code section 17535;

25 3. That the Court make such orders or judgments as may be necessary to prevent the
26 use or employment by any Defendant of any practice that constitutes unfair competition or as may
27 be necessary to restore to any person in interest any money or property that may have been
28 acquired by means of such unfair competition, under the authority of Business and Professions

1 Code section 17203;

2 4. That the Court make such orders or judgments as may be necessary to prevent the
3 use or employment by any Defendant of any practice that violates Business and Professions Code
4 section 17500, or which may be necessary to restore to any person in interest any money or
5 property, real or personal, which may have been acquired by means of any such practice, under
6 the authority of Business and Professions Code section 17535;

7 5. That the Court assess a civil penalty of \$2,500 against each Defendant for each
8 violation of Business and Professions Code section 17200 in an amount according to proof, under
9 the authority of Business and Professions Code section 17206;

10 6. In addition to any penalty assessed under Business and Professions Code section
11 17206, that the Court assess a civil penalty of \$2,500 against each Defendant for each violation of
12 Business and Professions Code section 17200 perpetrated against a senior citizen or disabled
13 person, in an amount according to proof, under the authority of Business and Professions Code
14 section 17206.1;

15 7. That the Court assess a civil penalty of \$2,500 against each Defendant for each
16 violation of Business and Professions Code section 17500, in an amount according to proof,
17 under the authority of Business and Professions Code section 17536;

18 8. That the People recover its costs of suit, including all costs of investigation; and

19 9. For such other and further relief that the Court deems just and proper.
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21 Dated: June 29, 2018

Respectfully Submitted,

22 XAVIER BECERRA
23 Attorney General of California

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25 RACHEL A. FOODMAN
26 Deputy Attorney General
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