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*Attorneys for Defendants*

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IN THE UNITED STATES DISTRICT COURT  
DISTRICT OF UTAH – CENTRAL DIVISION

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<p>ARIYANA RINGGOLD, and MILES RAMSEY, <i>on behalf of themselves and all others similarly situated,</i></p> <p style="text-align: center;">Plaintiffs,</p> <p>v.</p> <p>UTAH SYSTEM OF HIGHER EDUCATION; and, HARRIS H. SIMMONS,</p> <p style="text-align: center;">Defendants.</p>	<p><b>NOTICE OF REMOVAL OF A CIVIL ACTION FROM STATE COURT TO FEDERAL COURT</b></p> <p>Case No. 2:2-cv-00702-DAO</p> <p>Magistrate Judge Daphne A. Oberg</p>
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Pursuant to 28 U.S.C. §§ 1441(a), and 1446, Defendants, by and through counsel, Meb W. Anderson, Kyle J. Kaiser, Kevin V. Olsen and Natalie Nelson, Assistant Utah Attorneys General, hereby give NOTICE OF REMOVAL of the civil action pending against Defendants in

the Third Judicial District for Salt Lake County, State of Utah, entitled *Ariiyana Ringgold, and Miles Ramsey*, Case No. 210903725, to this Court. The grounds for removal are:

1. This action was commenced by the filing of a Complaint, in the Third Judicial District Court in and for Salt Lake County, State of Utah.
2. Defendants received a copy of the Complaint on or about November 10, 2021.
3. Plaintiffs' Complaint contains at least two causes of action against Defendants for alleged violations of federal civil rights under 42 U.S.C. § 1983.
4. Based on Plaintiffs' allegations of violations of civil rights, this Court has original jurisdiction of the above-entitled action pursuant 28 U.S.C. §1331, and this action may be removed to this Court pursuant to 28 U.S.C. §1441(a).
5. Removal of this action is timely. Fewer than thirty days have elapsed since the Defendants received a copy of the Complaint. The Complaint was the pleading from which it was first ascertained that the case is one that has become removable. *See* 28 U.S.C. §1446(b).
6. Pursuant to 28 U.S.C. §1446 (a), a copy of all process and pleadings that have been received by Defendants are attached hereto as Exhibit A.

WHEREFORE, Defendants submit this Notice that the above-entitled matter is hereby removed from the Third Judicial District Court in and for Salt Lake County, State of Utah, in accordance with the provisions of 28 U.S.C. § 1446.

DATED: November 29, 2021.

OFFICE OF THE UTAH ATTORNEY GENERAL

/s/ Meb W. Anderson

KYLE J. KAISER

MEB W. ANDERSON

KEVIN V. OLSEN

NATALIE NELSON

Assistant Utah Attorneys General

Attorneys for Defendants

**CERTIFICATE OF MAILING**

I certify that on November 29, 2021, I served a copy of the foregoing, **NOTICE OF REMOVAL TO FEDERAL COURT**, on the following by electronic filing with the court and by email:

Deborah R. Chandler  
Samantha E. Hawe  
ANDERSON & KARREBERG  
dchandler@aklawfirm.com  
shawe@aklawfirm.com

Edward W. Ciolko  
LYNCH CARPENTER, LLP  
eciolko@lcllp.com

/s/ Kyla Evans

CIVIL COVER SHEET

The JS 44 civil cover sheet and the information contained herein neither replace nor supplement the filing and service of pleadings or other papers as required by law, except as provided by local rules of court. This form, approved by the Judicial Conference of the United States in September 1974, is required for the use of the Clerk of Court for the purpose of initiating the civil docket sheet. (SEE INSTRUCTIONS ON NEXT PAGE OF THIS FORM.)

I. (a) PLAINTIFFS

ARIYANA RINGGOLD, and MILES RAMSEY, on behalf of themselves and all others similarly situated,

(b) County of Residence of First Listed Plaintiff WASHINGTON (EXCEPT IN U.S. PLAINTIFF CASES)

(c) Attorneys (Firm Name, Address, and Telephone Number)

ANDERSON & KARRENBERG 50 W. Broadway, Ste. 700, Salt Lake City, UT 84101 801-639-0954

DEFENDANTS

UTAH SYSTEM OF HIGHER EDUCATION; and HARRIS H. SIMMONS, Chairman

County of Residence of First Listed Defendant SALT LAKE (IN U.S. PLAINTIFF CASES ONLY)

NOTE: IN LAND CONDEMNATION CASES, USE THE LOCATION OF THE TRACT OF LAND INVOLVED.

Attorneys (If Known) UTAH ATTORNEY GENERAL'S OFFICE PO BOX 140856, Salt Lake City, UT 84114-0856 801-366-0100

II. BASIS OF JURISDICTION (Place an "X" in One Box Only)

- 1 U.S. Government Plaintiff, 2 U.S. Government Defendant, 3 Federal Question (U.S. Government Not a Party), 4 Diversity (Indicate Citizenship of Parties in Item III)

III. CITIZENSHIP OF PRINCIPAL PARTIES (Place an "X" in One Box for Plaintiff and One Box for Defendant)

Table with columns for Plaintiff (PTF) and Defendant (DEF) citizenship: Citizen of This State, Citizen of Another State, Citizen or Subject of a Foreign Country, Incorporated or Principal Place of Business In This State, Incorporated and Principal Place of Business In Another State, Foreign Nation.

IV. NATURE OF SUIT (Place an "X" in One Box Only)

Large table with categories: CONTRACT, REAL PROPERTY, CIVIL RIGHTS, TORTS, PRISONER PETITIONS, LABOR, IMMIGRATION, FORFEITURE/PENALTY, SOCIAL SECURITY, FEDERAL TAX SUITS, BANKRUPTCY, OTHER STATUTES.

V. ORIGIN (Place an "X" in One Box Only)

- 1 Original Proceeding, 2 Removed from State Court, 3 Remanded from Appellate Court, 4 Reinstated or Reopened, 5 Transferred from Another District, 6 Multidistrict Litigation - Transfer, 8 Multidistrict Litigation - Direct File

VI. CAUSE OF ACTION

Cite the U.S. Civil Statute under which you are filing (Do not cite jurisdictional statutes unless diversity): 42 U.S.C. § 1983

Brief description of cause: Civil rights claim alleging unlawful taking of tuition, housing, and other mandatory fees.

VII. REQUESTED IN COMPLAINT:

CHECK IF THIS IS A CLASS ACTION UNDER RULE 23, F.R.Cv.P. DEMAND \$ CHECK YES only if demanded in complaint: JURY DEMAND: Yes No

VIII. RELATED CASE(S) IF ANY

(See instructions): JUDGE DOCKET NUMBER

DATE 11/29/2021 SIGNATURE OF ATTORNEY OF RECORD /s/ Meb W. Anderson

FOR OFFICE USE ONLY

RECEIPT # AMOUNT APPLYING IFP JUDGE MAG. JUDGE

Print

Save As...

Reset

## INSTRUCTIONS FOR ATTORNEYS COMPLETING CIVIL COVER SHEET FORM JS 44

### Authority For Civil Cover Sheet

The JS 44 civil cover sheet and the information contained herein neither replaces nor supplements the filings and service of pleading or other papers as required by law, except as provided by local rules of court. This form, approved by the Judicial Conference of the United States in September 1974, is required for the use of the Clerk of Court for the purpose of initiating the civil docket sheet. Consequently, a civil cover sheet is submitted to the Clerk of Court for each civil complaint filed. The attorney filing a case should complete the form as follows:

- I.(a) Plaintiffs-Defendants.** Enter names (last, first, middle initial) of plaintiff and defendant. If the plaintiff or defendant is a government agency, use only the full name or standard abbreviations. If the plaintiff or defendant is an official within a government agency, identify first the agency and then the official, giving both name and title.
- (b) County of Residence.** For each civil case filed, except U.S. plaintiff cases, enter the name of the county where the first listed plaintiff resides at the time of filing. In U.S. plaintiff cases, enter the name of the county in which the first listed defendant resides at the time of filing. (NOTE: In land condemnation cases, the county of residence of the "defendant" is the location of the tract of land involved.)
- (c) Attorneys.** Enter the firm name, address, telephone number, and attorney of record. If there are several attorneys, list them on an attachment, noting in this section "(see attachment)".
- II. Jurisdiction.** The basis of jurisdiction is set forth under Rule 8(a), F.R.Cv.P., which requires that jurisdictions be shown in pleadings. Place an "X" in one of the boxes. If there is more than one basis of jurisdiction, precedence is given in the order shown below.  
 United States plaintiff. (1) Jurisdiction based on 28 U.S.C. 1345 and 1348. Suits by agencies and officers of the United States are included here.  
 United States defendant. (2) When the plaintiff is suing the United States, its officers or agencies, place an "X" in this box.  
 Federal question. (3) This refers to suits under 28 U.S.C. 1331, where jurisdiction arises under the Constitution of the United States, an amendment to the Constitution, an act of Congress or a treaty of the United States. In cases where the U.S. is a party, the U.S. plaintiff or defendant code takes precedence, and box 1 or 2 should be marked.  
 Diversity of citizenship. (4) This refers to suits under 28 U.S.C. 1332, where parties are citizens of different states. When Box 4 is checked, the citizenship of the different parties must be checked. (See Section III below; **NOTE: federal question actions take precedence over diversity cases.**)
- III. Residence (citizenship) of Principal Parties.** This section of the JS 44 is to be completed if diversity of citizenship was indicated above. Mark this section for each principal party.
- IV. Nature of Suit.** Place an "X" in the appropriate box. If there are multiple nature of suit codes associated with the case, pick the nature of suit code that is most applicable. Click here for: [Nature of Suit Code Descriptions](#).
- V. Origin.** Place an "X" in one of the seven boxes.  
 Original Proceedings. (1) Cases which originate in the United States district courts.  
 Removed from State Court. (2) Proceedings initiated in state courts may be removed to the district courts under Title 28 U.S.C., Section 1441.  
 Remanded from Appellate Court. (3) Check this box for cases remanded to the district court for further action. Use the date of remand as the filing date.  
 Reinstated or Reopened. (4) Check this box for cases reinstated or reopened in the district court. Use the reopening date as the filing date.  
 Transferred from Another District. (5) For cases transferred under Title 28 U.S.C. Section 1404(a). Do not use this for within district transfers or multidistrict litigation transfers.  
 Multidistrict Litigation – Transfer. (6) Check this box when a multidistrict case is transferred into the district under authority of Title 28 U.S.C. Section 1407.  
 Multidistrict Litigation – Direct File. (8) Check this box when a multidistrict case is filed in the same district as the Master MDL docket. **PLEASE NOTE THAT THERE IS NOT AN ORIGIN CODE 7.** Origin Code 7 was used for historical records and is no longer relevant due to changes in statute.
- VI. Cause of Action.** Report the civil statute directly related to the cause of action and give a brief description of the cause. **Do not cite jurisdictional statutes unless diversity.** Example: U.S. Civil Statute: 47 USC 553 Brief Description: Unauthorized reception of cable service
- VII. Requested in Complaint.** Class Action. Place an "X" in this box if you are filing a class action under Rule 23, F.R.Cv.P.  
 Demand. In this space enter the actual dollar amount being demanded or indicate other demand, such as a preliminary injunction.  
 Jury Demand. Check the appropriate box to indicate whether or not a jury is being demanded.
- VIII. Related Cases.** This section of the JS 44 is used to reference related pending cases, if any. If there are related pending cases, insert the docket numbers and the corresponding judge names for such cases.

**Date and Attorney Signature.** Date and sign the civil cover sheet.

David D. Gallup, Managing Investigator

ICEKEY INVESTIGATIONS

P.O. Box 981804

Park City, Utah 84098

(435) 513-0280

[icekeyinvestigations@live.com](mailto:icekeyinvestigations@live.com)

Served: Harris Simmons c/o Geoff Landwood c/o Cynthia Grua

Served by: D Gallup

Date: 11/10/21 Time: 4:23 p.m.

Address: 60 S. 400 W., Salt Lake City, Utah

IN THE THIRD DISTRICT COURT  
SALT LAKE COUNTY STATE OF UTAH

ARIYANA RINGGOLD, AND MILES RAMSEY, on behalf of themselves and all others similarly situated,  
PLAINTIFFS,  
V.  
UTAH SYSTEM OF HIGHER EDUCATION;  
AND, HARRIS H. SIMMONS.  
DEFENDANTS.

**Proof of Service under URCP 4**

Case No. 210903725

Judge Keith Kelly

(1) The following documents were served by the method described below:

- Summons
- Class Action  
Complaint and Demand for Jury Trial

**Service by Third Person** (Note: Certain people and entities must be served in a certain way. This form includes only the most common ways. Consult URCP 4(d) for others.)

- (2)  I am over the age of 18. I am not a party to this action. I am not an attorney for a party to this action.
- (3)  On 11/10/21, I went to 60 S. 400 W., Salt Lake City, Utah, and I delivered the documents listed in Paragraph (1) to Harris Simmons c/o Geoff Landwood c/o Cynthia Grua, who is:

<input type="checkbox"/> The named party defendant/respondent.	Serving defendant-respondent by delivery
<input type="checkbox"/> A person of suitable age and discretion residing at that address, which is the named party's dwelling house.	Serving an individual by leaving at his/her home
<input checked="" type="checkbox"/> An agent authorized by appointment or by law to receive service of process on behalf of the named party.	Serving an individual by delivery to an agent
<input type="checkbox"/> Describe how you served the document.	Other. See URCP 4.

I have not included any non-public information from this document.

I declare under penalty of Utah Code Section 78B-5-705 that everything stated in this document is true and correct.

Date 11/10/21 Sign here ► /s/ David Gallup

Typed or printed name David D. Gallup, P.I. UT LIC G102640

<b>Certificate of Service</b>			
I certify that I served a copy of this Proof of Service under URCP 4 on the following people.			
Person's Name	Method of Service	Served at this Address	Served on this Date
Harris Simmons c/o Geoff Landwood c/o Cynthia Grua	<input checked="" type="checkbox"/> Hand Delivery <input checked="" type="checkbox"/> Left at business (With person in charge or in receptacle for deliveries.) <input type="checkbox"/> Left at home (With person of suitable age and discretion residing there.)	60 S. 400 W., Salt Lake City, Utah	11/10/21

Date 11/10/21 Sign here ► /s/ David Gallup

Typed or printed name David D. Gallup, P.I. UT LIC G102640

**FOR ICEKEY INVESTIGATIONS OFFICE USE ONLY**

SERVED:	Harris Simmons c/o Geoff Landwood c/o Cynthia Grua								SERVED TITLE: Agent
OFFICE NOTES									SERVICE FEES: \$75.00
Military	Age	Weight	Height	Eyes	Hair	Race	Gender	Hos	11/10/21 4:23 p.m.
	55	167	5/8	?	BRW	C	F	N	SERVER NAME D Gallup

Deborah R. Chandler (Utah Bar No. 12057)  
Samantha E. Hawe (Utah Bar No. 17615)  
ANDERSON & KARRENERG  
50 West Broadway, Suite 600  
Salt Lake City, Utah 84101  
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[dchandler@aklawfirm.com](mailto:dchandler@aklawfirm.com)  
[shawe@aklawfirm.com](mailto:shawe@aklawfirm.com)

Edward W. Ciolko (*subject to Pro Hac Vice admission*)  
Lynch Carpenter, LLP  
1133 Penn Avenue, 5th Floor  
Pittsburgh, PA 15222  
Telephone: (267) 609-1990  
[eciolko@lcllp.com](mailto:eciolko@lcllp.com)

*Attorneys for Plaintiffs and Proposed Class*

**IN THE THIRD DISTRICT COURT, SALT LAKE COUNTY  
STATE OF UTAH**

-----  
**ARIYYANA RINGGOLD, AND MILES** )  
**RAMSEY, on behalf of themselves and all others** )  
**similarly situated,** )

**PLAINTIFFS,** )

**SUMMONS**

**v.** )

) Case No. 210903725

**UTAH SYSTEM OF HIGHER EDUCATION;** )  
**AND, HARRIS H. SIMMONS.** )

) Judge Keith Kelly

**DEFENDANTS.** )

-----  
THE STATE OF UTAH TO THE NAMED DEFENDANTS:

Harris H. Simmons, Chair  
Two Gateway  
60 South 400 West  
Salt Lake City, UT 84101



YOU ARE HEREBY SUMMONED and required to file with the Clerk of this Court, 450 South State Street, Salt Lake City, Utah 84114 and to serve upon Plaintiffs' attorneys, Deborah Chandler, Anderson & Karrenberg, 50 West Broadway, Suite 600, Salt Lake City, Utah 84101-2035, an Answer to the Class Action Complaint, which is herewith served upon you, within twenty-one (21) days after service of this Summons upon you, exclusive of the day of service. If you fail to do so, judgment by default will be taken against you for the relief demanded in the Class Action Complaint, the original of which has been filed with the Clerk of the Court and a copy of which is attached and served upon you.

DATED: November 10, 2021.

ANDERSON & KARRENBERG

*/s/ Deborah R. Chandler*

Deborah R. Chandler

Samantha E. Hawe

*Attorneys for Plaintiffs and Proposed Class*

David D. Gallup, Managing Investigator

ICEKEY INVESTIGATIONS

P.O. Box 981804

Park City, Utah 84098

(435) 513-0280

[icekeyinvestigations@live.com](mailto:icekeyinvestigations@live.com)

Served: Utah System of Higher Education c/o Geoff Landwood c/o Cynthia Grua

Served by: D Gallup

Date: 11/10/21 Time: 4:23 p.m.

Address: 60 S. 400 W., Salt Lake City, Utah

IN THE THIRD DISTRICT COURT  
SALT LAKE COUNTY STATE OF UTAH

ARIYANA RINGGOLD, AND MILES RAMSEY, on behalf of themselves and all others similarly situated,

PLAINTIFFS,

V.

UTAH SYSTEM OF HIGHER EDUCATION; AND, HARRIS H. SIMMONS.

DEFENDANTS.

**Proof of Service under URCP 4**

Case No. 210903725

Judge Keith Kelly

(1) The following documents were served by the method described below:

- Summons
- Class Action  
Complaint and Demand for Jury Trial

**Service by Third Person** (Note: Certain people and entities must be served in a certain way. This form includes only the most common ways. Consult URCP 4(d) for others.)

- (2)  I am over the age of 18. I am not a party to this action. I am not an attorney for a party to this action.
- (3)  On 11/10/21, I went to 60 S. 400 W., Salt Lake City, Utah, and I delivered the documents listed in Paragraph (1) to Utah System of Higher Education c/o Geoff Landwood c/o Cynthia Grua, who is:

<input type="checkbox"/> The named party defendant/respondent.	Serving defendant-respondent by delivery
<input type="checkbox"/> A person of suitable age and discretion residing at that address, which is the named party's dwelling house.	Serving an individual by leaving at his/her home
<input checked="" type="checkbox"/> An agent authorized by appointment or by law to receive service of process on behalf of the named party.	Serving an individual by delivery to an agent
<input type="checkbox"/> Describe how you served the document.	Other. See URCP 4.

I have not included any non-public information from this document.

I declare under penalty of Utah Code Section 78B-5-705 that everything stated in this document is true and correct.

Date 11/10/21 Sign here ► /s/ David Gallup  
 Typed or printed name David D. Gallup, P.I. UT LIC G102640

<b>Certificate of Service</b>			
I certify that I served a copy of this Proof of Service under URCP 4 on the following people.			
Person's Name	Method of Service	Served at this Address	Served on this Date
Utah System of Higher Education c/o Geoff Landwood c/o Cynthia Grua	<input checked="" type="checkbox"/> Hand Delivery <input checked="" type="checkbox"/> Left at business (With person in charge or in receptacle for deliveries.) <input type="checkbox"/> Left at home (With person of suitable age and discretion residing there.)	60 S. 400 W., Salt Lake City, Utah	11/10/21

Date 11/10/21 Sign here ► /s/ David Gallup  
 Typed or printed name David D. Gallup, P.I. UT LIC G102640

**FOR ICEKEY INVESTIGATIONS OFFICE USE ONLY**

SERVED:	Utah System of Higher Education c/o Geoff Landwood c/o Cynthia Grua	SERVED TITLE: Agent							
OFFICE NOTES		SERVICE FEES: \$75.00							
Military	Age	Weight	Height	Eyes	Hair	Race	Gender	Hos	11/10/21 4:23 p.m.
	55	167	5/8	?	BRW	C	F	N	SERVER NAME D Gallup

Deborah R. Chandler (Utah Bar No. 12057)  
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[shawe@aklawfirm.com](mailto:shawe@aklawfirm.com)

Edward W. Ciolko (*subject to Pro Hac Vice admission*)  
Lynch Carpenter, LLP  
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Pittsburgh, PA 15222  
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[eciolko@lcllp.com](mailto:eciolko@lcllp.com)

*Attorneys for Plaintiffs and Proposed Class*

**IN THE THIRD DISTRICT COURT, SALT LAKE COUNTY  
STATE OF UTAH**

-----  
**ARIHYANA RINGGOLD, AND MILES** )  
**RAMSEY, on behalf of themselves and all others** )  
*similarly situated,* )

**PLAINTIFFS,** )

**SUMMONS**

**v.** )

) Case No. 210903725

**UTAH SYSTEM OF HIGHER EDUCATION;** )  
**AND, HARRIS H. SIMMONS.** )

) Judge Keith Kelly

**DEFENDANTS.** )

-----  
THE STATE OF UTAH TO THE NAMED DEFENDANTS:

Utah System of Higher Education  
Office of the Commissioner  
Dave R. Woolstenhulme, Commissioner  
Two Gateway  
60 South 400 West  
Salt Lake City, UT 84101

YOU ARE HEREBY SUMMONED and required to file with the Clerk of this Court, 450 South State Street, Salt Lake City, Utah 84114 and to serve upon Plaintiffs' attorneys, Deborah Chandler, Anderson & Karrenberg, 50 West Broadway, Suite 600, Salt Lake City, Utah 84101-2035, an Answer to the Class Action Complaint, which is herewith served upon you, within twenty-one (21) days after service of this Summons upon you, exclusive of the day of service. If you fail to do so, judgment by default will be taken against you for the relief demanded in the Class Action Complaint, the original of which has been filed with the Clerk of the Court and a copy of which is attached and served upon you.

DATED: November 10, 2021.

ANDERSON & KARRENBERG

*/s/ Deborah R. Chandler*

Deborah R. Chandler

Samantha E. Hawe

*Attorneys for Plaintiffs and Proposed Class*

Deborah R. Chandler (Utah Bar No. 12057)  
Samantha E. Hawe (Utah Bar No. 17615)  
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[shawe@aklawfirm.com](mailto:shawe@aklawfirm.com)

*Attorneys for Plaintiffs and Proposed Class*

**IN THE THIRD DISTRICT COURT, SALT LAKE COUNTY  
STATE OF UTAH**

-----

<b>ARIYANA RINGGOLD, AND MILES</b>	)	
<b>RAMSEY, <i>on behalf of themselves and all others</i></b>	)	Case No.
<b><i>similarly situated,</i></b>	)	
	)	
<b>PLAINTIFFS,</b>	)	
	)	<b>CLASS ACTION COMPLAINT AND</b>
<b>v.</b>	)	<b>DEMAND FOR JURY TRIAL</b>
	)	
<b>UTAH SYSTEM OF HIGHER EDUCATION;</b>	)	
<b>AND, HARRIS H. SIMONS.</b>	)	
	)	
<b>DEFENDANTS.</b>	)	

-----

Plaintiffs, Ariiyana Ringgold and Miles Ramsey (collectively, "Plaintiffs"), by and through their undersigned counsel, brings this Class Action Complaint against Defendants, the Utah System of Higher Education (the "System"), and Harris H. Simons in his capacity as Chairman of the Board of Regents of the System (the "Board" or, collectively with the System, "Defendants"), and allege as follows based upon information and belief, except as to the allegations specifically pertaining to them, which are based on personal knowledge.

### NATURE OF THE ACTION

1. This is a class action lawsuit on behalf of all persons who paid or will pay tuition and/or fees to attend one of the Universities<sup>1</sup> under the control of the Board (collectively, the “Universities”) for an in-person, hands on education for the Spring 2020 semester, Summer 2020 semester, and any future semester affected by Coronavirus Disease 2019 (“COVID-19”) when their course work moved to online learning. Such persons paid all or part of the tuition for each semester, housing fees, and/or mandatory fees that varied depending upon which of the Universities the student was enrolled (“Mandatory Fees”). The Universities have not provided just compensation for the taking of Plaintiffs’ and the Class members’ constitutionally protected property in the form of on-going contractual services and funds (tuition, housing fees, and Mandatory Fees).

2. Because of the Universities’ response to the COVID-19 pandemic, on or about mid-March, 2020, the Universities ceased in-person and on-campus learning, and ceased or severely limited any of the services or facilities the Mandatory Fees were intended to cover.

3. Some of the Universities have also provided students with a partial refund of housing costs, but only if the students were able to move out prior to a strict move-out date. Those students who moved out of housing after the strict move-out date should also be entitled to a just compensation for the taking of their housing fees and the unilateral cancellation of their constitutionally protected contractual interests.

4. In short, as to tuition, Plaintiffs and the members of the Class have paid tuition for an in-person education and educational experience, with all the appurtenant benefits offered as a

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<sup>1</sup>Dixie State University, Salt Lake Community College, Southern Utah University, Snow College, University of Utah, Utah State University, Utah Valley University, and Weber State University.

result, and were provided a materially different and less valuable product, which constitutes a breach of the contract entered into by Plaintiffs and the Class with the Universities. As said in New York Magazine, “Universities are still in a period of consensual hallucination with each saying, ‘We’re going to maintain these prices for what has become, overnight, a dramatically less compelling product offering.’”<sup>2</sup>

5. As to the Mandatory Fees, Plaintiffs and the Class have paid fees for services and facilities which are simply not being provided; this failure also constitutes a breach of the contracts entered into by Plaintiffs and the Class with the Universities.

6. As a result of ceasing or severally limiting the promised benefits, the Universities unlawfully failed to perform its ongoing contractual obligations and seized and are in possession of property (funds) of the Plaintiffs and Class members in the form of paid tuition, housing, and Mandatory Fees, and have not provided just compensation for such taking.

7. Plaintiffs seek, for themselves and Class members, just compensation for the tuition and Mandatory Fees paid, proportionate to the reduction in contracted for services provided during the time that remained in the Spring Semester 2020 where the campuses were closed and students were moved to distance/virtual learning, and the entirety of all semesters affected by Covid-19 for any class members who signed up and paid for on campus classes when the Universities closed/will remain closed and switched to online distance learning, or, in the case of housing, the portion of the housing fee for the days left in the semester for any members of the Class that moved out after the strict move-out dates. The return of such pro-rated amounts would compensate Plaintiffs and

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<sup>2</sup> James D. Walsh, “The Coming Disruption,” New York Magazine, May 11, 2020, available at [https://nymag.com/intelligencer/2020/05/scott-galloway-future-of-college.html?utm\\_source=fb](https://nymag.com/intelligencer/2020/05/scott-galloway-future-of-college.html?utm_source=fb) (site last visited June 9, 2020).



the Class members for just compensation sustained by way of Defendant's unconstitutional actions.

8. Prior to bringing this action, on May 3, 2021, Plaintiffs served a Notice of Claim to the Board on behalf of themselves and the Class defined herein pursuant to Utah Code 63G-7-401. A copy of the Notice of Claim is attached hereto as **Exhibit A**.

9. Plaintiffs' counsel has sent a Freedom of Information Act (FOIA) request to the Board and each of the individual Universities in order to, *inter alia*, gain access to the internal communications regarding issuing potential refunds and reimbursements to the students, and the ultimate denial of the same. If any information received proves fruitful, Plaintiffs shall amend the Complaint to incorporate.

### **PARTIES**

10. Plaintiff Ariiyana Ringgold is a citizen of Nevada. She paid to attend the Spring 2020 semester at Dixie State University ("Dixie State") as a full-time undergraduate student. Plaintiff Ringgold paid tuition and the Mandatory Fees for the Spring 2020 semester to enable her to obtain an in-person, on-campus educational experience, and enable her to participate in the activities and to utilize the services covered by the Mandatory Fees that she paid. She has not been provided just compensation for the taking of the tuition paid for her in-person classes that were discontinued and moved online, or the Mandatory Fees she paid after Dixie State's facilities were closed or access was severally limited and events were cancelled.

11. Plaintiff Miles Ramsey is a citizen of Utah. He paid to attend the Spring 2020 semester at the University of Utah ("Utah") as a full-time graduate student. Plaintiff Ramsey paid tuition and the Mandatory Fees for the Spring 2020 semester to enable him to obtain an in-person, on-campus educational experience, and enable him to participate in the activities and to utilize the

services covered by the Mandatory Fees that he paid. He has not been provided just compensation for the taking of the tuition paid for his in-person classes that were discontinued and moved online, or the Mandatory Fees he paid after Utah's facilities were closed or access was severely limited and events were cancelled.

12. Defendant, Utah System of Higher Education, is an institution of higher education that is compiled of eight public universities and eight technical schools<sup>3</sup>, with its principal place of business at 60 South 400 West, Salt Lake City, Utah 84101.

13. The System is governed by a Board of Regents, comprised of seventeen residents of the State of Utah appointed by the Governor with the consent of the Senate. 53B-1-104 UCA. The Board has the authority and ability to create policies regarding tuition at the Universities.<sup>4</sup>

14. Defendant Harris H. Simons is being sued in his official capacity as member and Chairman of the Board of Regents. The Board maintains its principal place of business at 60 South 400 West, Salt Lake City, Utah 84101.

15. The Universities offer numerous major fields for undergraduate students, as well as a number of graduate programs. The Universities' programs include students from many, if not all, of the states in the country.

### **JURISDICTION AND VENUE**

16. The Court has jurisdiction over this action pursuant to Utah Code Ann. § 78A-5-102 and Utah Code Ann. § 63G-7-302(1).

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<sup>3</sup> This Complaint does not include the eight technical schools.

<sup>4</sup> <https://ushe.edu/ushe-meeting-event/board-of-regents-meeting-36/>;  
<https://www.deseret.com/utah/2020/3/26/21195651/with-covid-19-impacts-weighing-on-their-minds-utah-regents-ok-tuition-hikes-at-most-colleges>

17. Venue is proper in this county pursuant to Utah Code Ann. § 78B-3-307 and Utah Code Ann. § 63G-7-502 because this is a county in which the cause(s) of action arises and/or Defendants reside in this county. Moreover, the Utah System of Higher Education has its principal office in Salt Lake County, Utah, maintaining its office at The Gateway, 60 South 400 West, Salt Lake City, Utah 84101.

**FACTUAL ALLEGATIONS.**

18. Plaintiffs and Class Members paid to attend one of the Universities' Spring 2020 semester, or future semesters affected by Covid-19, including tuition, housing (if they lived on campus), and/or the Mandatory Fees.

19. The Spring 2020 semester at Dixie State began on or about January 21, 2020. The Spring 2020 semester ended on or around April 30, 2020. The Summer 2020 semester began on or about May 11, 2020, and ended on or around July 31, 2020.

20. Dixie State charges students tuition and Mandatory Fees for each semester enrolled.

21. The Mandatory Fees at Dixie State consists of: Athletics, Human Performance Center Fund, DSUSA, Recreation/Intramurals/Fitness, IT Support, Student Center Operations, Department of Student Involvement, Health and Wellness Center, Testing Center, New Student Center Fund, Tutoring Center, One Time Expense Fund, Radio and Broadcast Advertising, Fine Arts, Writing Center, Dixie Sun News, Student Inclusion, AED, and Institute of Politics and Public Affairs.<sup>5</sup>

22. According to Dixie State, the purpose of these fees is to “make a lot of the experiences you see on campus a possibility.” Further, in exchange for these fees, “[y]ou also get

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<sup>5</sup> <https://dixie.edu/thedixielife/2020-2021-student-fees/>

access to a ton of great perks” such as “[a]ccess to free athletic games,” “access to the fitness center,” and “campus events.”<sup>6</sup>

23. The Spring 2020 semester at Utah began on or about January 6, 2020. The Spring semester ended on or around April 29, 2020. The Summer 2020 semester began on May 11, 2020, and ended on or around July 31, 2020.

24. Utah charges students tuition and Mandatory Fees for each semester enrolled.

25. The Mandatory Fees at Utah consists of: Computing, Building, Athletic, Student Life Center, Transportation, Gardner Commons, ASUU Activity, Health Services, Campus Recreation, Fine Arts, Library, Utilities, Student Publications Council, Mental Health, Union Building Fee, Money Management, Study Abroad, Sustainability, and Campus Connect.<sup>7</sup>

26. According to Utah, the fees are paid in exchange for the “availability and the use of facilities,” “campus shuttle buses,” “free access to sporting events,” and “Intramural Sports, Sport Clubs.”<sup>8</sup>

27. Plaintiffs and members of the Class paid all or part of the applicable tuition for the benefit of on-campus live interactive instruction and an on campus educational experience throughout the entire semester.

28. Plaintiffs and members of the Class paid the Mandatory Fees for the semester so they could benefit throughout the entire semester from the services and facilities for which the Mandatory Fees pertained.

29. The members of the Class who lived on campus during the Spring 2020 semester paid the applicable cost for the benefit of on-campus housing throughout the entire semester.

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<sup>6</sup> *Id.*

<sup>7</sup> <https://www.obia.utah.edu/tuition-required-fees/>

<sup>8</sup> *Id.*

30. The other Universities charged tuition, housing, and Mandatory Fees that varied depending on which campus the student was enrolled with, and whether the student was a resident of the State of Utah.

31. The Universities have retained the value of the tuition, housing, and Mandatory Fees, while failing to provide the services for which they were paid.

32. Members of the Class have demanded the return of the prorated portion of tuition and Mandatory Fees, and have taken to an online petition to demand the same.<sup>9</sup>

33. Despite the demand from the Class, the Universities have not provided any refund of tuition or Mandatory Fees and continue to retain the monies paid by Plaintiffs and the Class. This retention amounts to a taking.

34. The Universities and their students are governed by certain agreements amongst them such as policies, handbooks, codes of conduct, and/or general customary practices.

35. For example, Dixie State's Code of Student Rights and Responsibilities provides that students have a right to a learning environment. Specifically:

1. **Learning Environment:** Students have a right to an environment and climate conducive to learning and thinking. Students have a right of reasonable access to University facilities, services, and programs, including access to faculty members and to courses as described in the University Catalog. University teaching should reflect consideration for the dignity of students and their rights and individuals. Students have a right to be treated with courtesy and respect.

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36. Similarly, Utah's Student Code indicates that its purpose is to: "set forth the specific authority and responsibility of the University to maintain social discipline, to establish guidelines

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<sup>9</sup> <https://www.change.org/p/utah-state-university-petition-for-usu-to-reimburse-students-a-portion-of-their-semester-fees>

<sup>10</sup> <https://catalog.dixie.edu/codeofstudentrightsresponsibilities/>

that facilitate a just and civil campus community, and to outline the educational process for determining student and student organization responsibility for alleged violations of University regulations. University policies have been designed to protect individuals and the campus community and create an environment conducive to achieving the academic mission of the institution.”<sup>11</sup>

***In Response to COVID-19, the Universities Closed Campus, Preventing Access to its Facilities, Services, Housing, and Cancelled All In-Person Classes***

37. In response to the COVID-19 pandemic, Dixie State created a new section for its website to provide updates and answer frequently asked questions.<sup>12</sup>

38. Starting immediately after spring break, on March 23, 2020, Dixie State cancelled all in-person classes and transitioned to remote online courses for the rest of the Spring 2020 semester. Dixie State further canceled all campus events, gatherings, and athletics for the foreseeable future.<sup>13</sup>

39. Specifically, in response to the COVID-19 pandemic, Dixie State uploaded the following information to its website:

**ARE ALL CLASSES BEING HELD REMOTELY?**

Starting Monday, March 23, lecture-style classes traditionally held on campus will be held remotely to protect the health of the community. Remote learning employs various methods including but not limited to online courses, podcasts, and face-to-face live Internet sessions.

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<sup>11</sup> <https://regulations.utah.edu/academics/6-400.php>

<sup>12</sup> <https://wellness.dixie.edu/coronavirus-information/>

<sup>13</sup> *Id.*

### **WHAT EVENTS ON CAMPUS HAVE BEEN CANCELED?**

All University-sponsored events and mass gatherings are being canceled, rescheduled, or conducted remotely until further notice.

### **SHOULD I CANCEL MY ON-CAMPUS MEETING?**

If possible, meetings should be conducted via videoconferencing or teleconferencing; if this is not an option, they should be postponed.

### **ARE ATHLETIC EVENTS CANCELED?**

Yes, DSU's Department of Intercollegiate Athletics has canceled all remaining 2020 conference and non conference spring athletic events, travel, and practices. Get the latest update from Dixie State Athletics [here](#).

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40. On or about March 23, 2020, Dixie State placed limitations on facilities and services by restricting hours and access for students. Specifically, the library was open only for computer and printer use, and students were urged to study remotely and only come to the library when absolutely necessary. All other facilities were either closed in order to provide services remotely, or remained open with significantly reduced hours.<sup>15</sup>

41. After transitioning all in-person classes to a remote online learning format, Dixie State gave students the option to receive a Pass/No Credit grade in lieu of traditional letter grading.<sup>16</sup>

42. Dixie State subsequently postponed the Spring 2020 commencement ceremony to December 11, 2020.<sup>17</sup>

43. Dixie State ultimately decided to cancel in person classes for the entirety of the Summer 2020 semester, administering classes remotely instead.

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<sup>14</sup> *Id.*

<sup>15</sup> *Id.*

<sup>16</sup> *Id.*

<sup>17</sup> *Id.*

44. Dixie State has not held a full in-person semester of classes since March 13, 2020, which was just before the commencement of its spring break. Classes that have continued since March 23, 2020 during the Spring 2020 and Summer 2020 terms were only offered in a remote online format with no in-person instruction or interaction.

45. Also in response to the COVID-19 pandemic, Dixie State gave students the option to move out of on-campus housing by April 7, 2020 to obtain a prorated refund of housing costs.<sup>18</sup> Student who could not move out prior to that date were not eligible for a refund.

46. Dixie State posted on its website that no refund for tuition will be given since it is continuing education online. It did not provide any refund information for the Mandatory Fees.<sup>19</sup>

47. Upon information and belief, the other Universities, including Utah, followed similar procedures under the guidance of the Board, cancelling in person classes and on campus services, while retaining the full amount of tuition and Mandatory Fees paid.

**Plaintiffs and the Class Members Contracted with the Universities to Receive In-Person Instruction and Facility Access by Paying Tuition and Fees**

48. Students attending the Universities did not choose to attend an online institution of higher learning, but instead chose to enroll in the Universities' in-person educational program.

49. On their websites, the Universities solicit students by describing the on-campus experience as a benefit of enrollment by stating:

Learning is exciting when you fill your life with enriching experiences and unforgettable friendships. Catch a game, see a concert, join a club, and learn lessons that last a lifetime.

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<sup>18</sup> *Id.*

<sup>19</sup> *Id.*



**CLUBS & ORGANIZATIONS**  
Get the most out of your Dixie experience. Make lasting connections and explore your interests with our diverse clubs and organizations.  
**/ JOIN A GROUP**

**OUTDOOR & CAMPUS RECREATION**  
Energize your learning with Dixie's abundant recreational experiences. Swim a few laps or take a ride through the canyon to keep your brain and body invigorated.  
**/ GET MOVING**

**STUDENT ACTIVITIES**  
There's always something exciting happening on campus in the surrounding areas. Find out what's going on and get involved.  
**/ GET INVOLVED**

**CAMPUS RECREATION**  
Indoor, outdoor, pool, and intramural or club sports activities. Whatever you enjoy we have it.  
**/ GET ACTIVE**

**SERVICE OPPORTUNITIES**  
We strive to connect the community and university with meaningful volunteer experiences. We invite all to join us as we embrace the spirit of volunteerism.  
**/ GIVE BACK**

**INCLUSION CENTER**  
Join with your fellow students to celebrate the many cultures that make our university great.  
**/ GET INVOLVED**

20

While academics rule the day, the experiences outside of class is a major part to life at the U. Around campus, extracurricular activities abound with hundreds of clubs and student groups, ranging from the serious and studious (like, the [Park Debate Society](#)) to the adrenaline-filled and heart-pumping (see [Freeskier Society](#)), with nearly everything in between.

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## Campus Life

USU is the oldest residential campus in Utah offering a variety of year-round activities and countless ways to connect with other members of the university community.

22

<sup>20</sup> <https://campuslife.dixie.edu/>

<sup>21</sup> [https://www.utah.edu/\\_archive/life/student.php](https://www.utah.edu/_archive/life/student.php)

<sup>22</sup> <https://www.usu.edu/campus-life/>

## ENGAGING CAMPUS LIFE

Fill your university life with unforgettable experiences at the Sears Art Museum, the O.C. Tanner Amphitheater, or one of the many sporting events throughout the year.

23

50. Some of the Universities offer online classes as a distinct product offering that requires separate enrollment and registration.

51. Plaintiffs and members of the Class did not choose the online programs offered by the Universities.

52. Prior to Covid-19, Dixie State offered “DSU Online.”<sup>24</sup>

53. Leaving the decision to enroll in online programs to the students, Dixie State states: “Follow in the footsteps of other Trailblazers, and choose an online program that works for your schedule, lifestyle, and location.”<sup>25</sup>

54. When reviewing the programs offered at Utah, the university proclaims: “With 18 colleges and schools and nearly 100 departments, one would be hard pressed to find a subject matter not taught at the U. It's this broad spectrum of diverse academic pursuits that contributes to the *intellectual energy experienced on campus.*”<sup>26</sup> (emphasis added).

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<sup>23</sup> <https://web.archive.org/web/20191216034518/https://dixie.edu/>

<sup>24</sup> [https://web.archive.org/web/20200320124720if\\_/https://online.dixie.edu/](https://web.archive.org/web/20200320124720if_/https://online.dixie.edu/)

<sup>25</sup> <https://online.dixie.edu/programs/>

<sup>26</sup> <https://www.utah.edu/academics/colleges.php>

55. Utah has a pledge entitled “Student Success” that makes four distinct promises: (i) Promise 1: Learning Communities; (ii) Promise 2: Advising & Mentoring; (iii) Promise 3: Plan to Finish; (iv) Promise 4: Deeply Engaged Learning Experience.<sup>27</sup>

56. Utah’s first promise to its students is to provide a collaborative community where you do not need to study alone:

### **LEARNING COMMUNITIES & COHORTS**

No need to study alone in your dorm or secluded in the library. During your first year at the U you can be part of a cohort. A group of students working through the same curriculum. Your academic crew. You can also study in a learning community. Students with the same academic interests taking courses and participating in extracurricular activities together.

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57. The Universities use their websites, promotional materials, circulars, admission papers, handbooks, codes, and publications to solicit and offer on campus education students will receive in its facilities.

58. During the online portion of the semesters, the Universities offered some classes through Zoom. Other classes, however, stopped providing the students with any lectures at all and required that the students learn on their own and turn in assignments when due. Therefore, there was a lack of bargained-for classroom interaction among teachers and students and among individual students.

59. Students have been deprived of the opportunity for collaborative learning and in-person dialogue, feedback, and critique.

60. Access to facilities such as libraries, laboratories, computer labs, and study rooms, are also a bargained for component of Plaintiffs and the Class members’ college education, and

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<sup>27</sup> <https://studentsuccess.utah.edu/>

<sup>28</sup> <https://studentsuccess.utah.edu/resources/learning-communities-amp-cohorts/>

access to the myriad activities offered by campus life fosters social development and independence, and networking for future careers, all substantial and materials parts of the basis upon which the Universities can charge the tuition it charges, are not being provided.

61. The Universities have not made any refund of any portion of the tuition Plaintiffs and the members of the Class paid for the semesters for the period it moved to on-line distance learning.

62. Nor have the Universities refunded any portion of the Mandatory Fees it collected from Plaintiffs and the members of the Class for the semesters even though it limited access to or ceased the services and facilities for which the Mandatory Fees were intended to pay.

63. There are also members of the Class who were not able to move out of Universities' housing prior to the strict move out dates and should be entitled to a prorated refund for the remaining days of the Spring 2020 semester.

64. Plaintiffs and the Class members are therefore entitled to just compensation for the taking of the tuition and Mandatory Fees they paid for the semesters affected by Covid-19 for the reduction in benefits received during remaining days of the semester after classes moved from in-person to online and facilities were closed or severally limited. Further, any students who lived on campus during the Spring 2020 semester and who moved out after the strict move out date, should be entitled to just compensation for the taking of housing fees that they paid for the remaining days of that semester after they left the campus.

65. Defendants are obligated to uphold the Utah and United States Constitutions.

66. By denying in-person learning and on-campus benefits and opportunities, Defendants have violated the Utah Constitution, Article I, §§ 7 and 22, and the United States Constitution's Fifth and Fourteenth Amendments. Plaintiffs and members of the Class are entitled

to just compensation for the taking of tuition, housing, and Mandatory Fees for the reduction in benefits received for the duration of the Universities COVID-19 related closures for the in-person education and on-campus services and opportunities that Plaintiffs and members of the Class have been denied.

**CLASS ACTION ALLEGATIONS**

67. Plaintiffs bring this case individually and, pursuant to Rule 23 of the Federal Rules of Civil Procedure, on behalf of the class defined as:

All persons who paid tuition, housing fees (for those who lived on-campus), and/or the Mandatory Fees for a student to attend in-person class(es) during the Spring 2020 semester and/or Summer 2020 semester at one of the Universities but had their class(es) moved to online learning (the “Class”).

68. Excluded from the Class is Defendants, their subsidiaries and affiliates, their officers, directors and members of their immediate families and any entity in which Defendants have a controlling interest, the legal representative, heirs, successors or assigns of any such excluded party, the judicial officer(s) to whom this action is assigned, and the members of their immediate families.

69. Plaintiffs reserve the right to modify or amend the definition of the proposed Class if necessary before this Court determines whether certification is appropriate.

70. This action has been brought and may properly be maintained on behalf of the Class proposed herein under the criteria of Rule 23 of the Utah Rules of Civil Procedure.

71. The requirements of Rule 23(a)(1) have been met. The Class is so numerous that joinder of all members is impracticable. Although the precise number of Class members is unknown to Plaintiffs, it is believed that the number of students enrolled in the Spring 2020 semester exceed 150,000. The number of students enrolled for Summer 2020 or any future

semesters is unknown at this time. The identity of all such students is known to the Universities and can be identified through the Universities' records. Class members may be notified of the pendency of this action by recognized, Court-approved notice dissemination methods, which may include U.S. Mail, electronic mail, Internet postings, and/or published notice.

72. The requirements of Rule 23(a)(2) have been met. There are questions of law and fact common to the members of the Class including, without limitation:

- a. Whether the Universities accepted money from Plaintiffs and the Class members in exchange for the promise to provide an in-person and on-campus live education, as well as access to certain facilities and services throughout the Spring 2020 semester;
- b. Whether Defendants breached its contracts with Plaintiffs and the members of the Class by failing to provide them with an in-person and on-campus live education after mid-March 2020;
- c. Whether Defendants complied with the Constitutional requirements for seizing and retaining Plaintiffs' and the Class members' property without providing the services that the tuition, housing, and Mandatory Fees were intended to cover;
- d. Whether Defendants afforded Plaintiffs and the other Class members notice and due process before seizing and retaining their property; and
- e. The amount of just compensation and other relief to be awarded to Plaintiffs and the Class members.

73. The requirements of Rule 23(a)(3) have been met. Plaintiffs' claims are typical of the claims of the members of the Class because Plaintiffs and the other Class members each contracted with Defendants for it to provide an in-person and on-campus live education for the

tuition they paid, Universities housing (for those who lived on-campus), and access to the services and facilities for the Mandatory Fees that they paid, that the Universities stopped providing in mid-March, all while unlawfully retaining the property (funds) of the Plaintiffs and Class.

74. The requirements of Rule 23(a)(4) have been met. Plaintiffs are adequate class representative because their interests do not conflict with the interests of the other Class members who they seek to represent, Plaintiffs have retained competent counsel who are experienced in complex class action litigation, and Plaintiffs intend to prosecute this action vigorously. Class members' interests will be fairly and adequately protected by Plaintiffs and their counsel.

75. Class certification of Plaintiffs' claims is also appropriate pursuant to Rule 23(b)(3) because the above questions of law and fact that are common to the Class predominate over questions affecting only individual members of the Class, and because a class action is superior to other available methods for the fair and efficient adjudication of this litigation. The amounts of just compensation owed to the individual Class members, or the damages or financial detriment suffered by individual Class members, are relatively small compared to the burden and expense of individual litigation of their claims against the Universities. It would, thus, be virtually impossible for the Class, on an individual basis, to obtain effective redress for the wrongs committed against them. Furthermore, individualized litigation would create the danger of inconsistent or contradictory judgments arising from the same set of facts. Individualized litigation would also increase the delay and expense to all parties and the court system from the issues raised by this action. By contrast, the class action device provides the benefits of adjudication of these issues in a single proceeding, economies of scale, and comprehensive supervision by a single court, and presents no unusual management difficulties under the circumstances.

**FIRST CLAIM FOR RELIEF**  
**VIOLATION OF THE TAKINGS CLAUSE - 42 U.S.C. § 1983**  
**(On Behalf of Plaintiffs and the Class)**

76. Plaintiffs repeat and re-alleges the factual allegations above, as if fully alleged herein.

77. Plaintiffs brings this claim individually and on behalf of the members of the Class against the individually named Defendant.

78. The Takings Clause of the Fifth Amendment provides that private property shall not “be taken for public use, without just compensation.” U.S. Const. Amend. V. The takings clause is made applicable to the states through the Fourteenth Amendment. *See* U.S. Const. Amend. XIV; *Murr v. Wisconsin*, 137 S. Ct. 1933, 1942, 198 L. Ed. 2d 497 (2017) (citing *Chicago, B. & Q.R. Co. v. Chicago*, 166 U.S. 226, 17 S.Ct. 581, 41 L.Ed. 979 (1897)).

79. Takings claims may properly be brought against state agencies and are not barred by sovereign immunity.

80. Common law has recognized that there is a property right by an owner in funds held in an account managed by another. Here, the Universities received payment of tuition, housing, and Mandatory Fees from private citizens, as consideration for the benefit of receiving in-person course instruction, housing, and other on-campus benefits - the funds are thus private in nature but held by a public entity. Plaintiffs and the other members of the Class have a protected property right in all sums they paid to the Universities.<sup>29</sup>

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<sup>29</sup> Indeed, colleges and universities must be able to separately account for student payments, as well as financial aid received on an individual student’s behalf, as these institutions are frequently required to issue refunds to the government and the student for instances where the student enrolls, but does not complete classes for which the institution has received financial aid payments from the federal government. The Higher Education Act (“HEA”), Title IV, governs federally funded student financial aid programs for college and post-secondary vocational



81. In addition, prior to the start of the Spring 2020 term, Plaintiffs and the Class members paid for and/or agreed to pay for an in-person educational experience and access to Defendant's campus and facilities. As a result, Plaintiffs and Class members also have a protected property interest in an enforceable right to receive such services.

82. Defendant violated the Takings Clause by failing to provide ongoing contracted for services and by failing to return to Plaintiffs and members of the Class that portion of the tuition, housing, and Mandatory Fees for which they received nothing, or significantly less than what they bargained for in return. Neither Plaintiffs nor the other Class members have made a knowing and voluntary waiver of their constitutional right under the Fifth Amendment to be paid just compensation for the taking of their property rights in those funds.

83. Thus, Plaintiffs and the Class are entitled to injunctive relief prohibiting Defendants from continuing to charge full tuition and fees when only providing online distance learning and limited or no access to campus, and injunctive relief ordering Defendants to return funds unlawfully withheld.

**SECOND CLAIM FOR RELIEF**  
**DUE PROCESS - 42 U.S.C. § 1983**  
**(On Behalf of Plaintiffs and the Class)**

84. Plaintiffs repeat and re-allege the factual allegations set forth above as if fully alleged herein.

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training. *See* 20 U.S.C. §§ 1070–1099 (1990 & 1992 Supp.). The HEA requires that when a student withdraws partway through the enrollment period, the institution must refund a certain portion of the charges to account for its reduced educational obligations toward the student. *Career Coll. Ass'n v. Riley*, 74 F.3d 1265, 1269 (D.C. Cir. 1996). Thus, it is beyond dispute that any college or university receiving any tuition payments through government-provided financial aid must be able to account for what was paid for each individual student. This means that each student's tuition funds must be capable of being separately identified and sequestered.

85. Plaintiffs bring the claim individually and on behalf of the members of the Class against all Defendants.

86. Government actors must provide adequate due process procedures when depriving citizens of protected property interests. U.S. Const. Amend. XIV; Utah Const. Art. I, § 7.

87. The due process clauses of the U.S. and Utah Constitutions prohibits the State of Utah and the governmental agencies that it forms, such as the System and the Board, from depriving citizens of a protected property interest without due process of law.

88. Plaintiffs and the Class members had a constitutionally protected property interest in the tuition, housing, and Mandatory Fees they paid for in-person education, housing, and on-campus services and opportunities but were denied due to the COVID-19 pandemic. Plaintiffs and Class members also had a constitutionally protected property interest in ongoing services as contracted for with the Universities.

89. Defendants took actions affecting Plaintiffs and the other Class members' constitutionally protected property interest by failing to provide ongoing contracted for services and by retaining amounts from Plaintiffs' and the Class members' payment of tuition, housing, and Mandatory Fees.

90. Defendants deprived Plaintiffs and the other Class members of their protected property interests without due process of law by, for example:

- a. Failing to provide timely notice to Plaintiffs and the Class, whose identity and contact information Defendants either knew, or by exercise or reasonable diligence should have known, of the refundable nature of the tuition, housing, and Mandatory Fees;
- b. Failing to design and implement criteria by which the tuition, housing, and Mandatory Fees can be refunded to Plaintiffs and the Class in light of the Universities ceasing or severally limiting all on-campus in-person lectures, housing, and activities due to the COVID-19 pandemic; and

- c. Failing to design and implement a mechanism by which Plaintiffs and the other Class members can obtain a refund of the tuition, housing, and Mandatory Fees in light of the Universities' ceasing or severally limiting all on-campus in-person lectures, housing, and activities due to the COVID-19 pandemic.

91. Defendants' failure to comply with the requirements of due process has deprived Plaintiffs and the Class members of their property and/or has resulted in substantial detriment to the Plaintiffs and the Class.

**THIRD CLAIM FOR RELIEF**  
**INVERSE CONDEMNATION**  
**(On Behalf of Plaintiffs and the Class)**

92. Plaintiffs repeat and re-allege the factual allegations set forth above as if fully alleged herein.

93. Plaintiffs brings this claim individually and on behalf of the Class members against all Defendants.

94. Article I, § 22 of the Utah Constitution provides "Private property shall not be taken or damaged for public use without just compensation." Utah Const. art. I, § 22. Thus, the Utah Constitution prohibits the individual Defendants from taking private property for public use without just compensation.

95. Common law has recognized that there is a property right by an owner in funds held in an account managed by another. Here, Defendants received payment of tuition, housing, and mandatory fees from private citizens, as consideration for the benefit of receiving in-person course instruction, housing, and other on-campus benefits—the funds are thus private in nature but held by a public entity. Plaintiffs and Class Members have a protected property right in all sums they paid to Defendants.

96. In addition, prior to the start of the Spring 2020 term, Plaintiffs and the Class members paid for and/or agreed to pay for an in-person educational experience and access to Defendant's campus and facilities. As a result, Plaintiffs and Class members also have a protected property interest in an enforceable right to receive such services.

97. Defendants violated the Utah Constitution by failing to provide the contracted for in-person on-campus education and experience or return and/or direct the return to Plaintiffs and Class Members that portion of the tuition, housing, and mandatory fees for which they received nothing, or significantly less than what they bargained for in return. Neither Plaintiffs nor the other Class Members have made a knowing and voluntary waiver of their constitutional right under the Utah Constitution to be paid just compensation for the taking of their property rights in those funds.

98. Thus, Plaintiffs and the Class are entitled to just compensation for the taking of their property.

#### **PRAYER FOR RELIEF**

WHEREFORE, Plaintiffs respectfully request that judgment be entered in favor of Plaintiffs and the Class against Defendants as follows:

- (a) For an order certifying the Class under Rule 23 of the Federal Rules of Civil Procedure and naming Plaintiffs as representatives of the Class and Plaintiffs' attorneys as Class Counsel to represent the Class;
- (b) For an order finding in favor of Plaintiffs and the Class on all counts asserted herein;
- (c) For just compensation in an amount to be determined by the trier of fact;
- (d) For an order of restitution and all other forms of equitable monetary relief;

- (e) Awarding Plaintiffs' reasonable attorneys' fees, costs, and expenses;
- (f) Awarding pre- and post-judgment interest on any amounts awarded; and,
- (g) Awarding such other and further relief as may be just and proper.

**DEMAND FOR TRIAL BY JURY**

Pursuant to the Utah Rule of Civil Procedure 38(b), Plaintiffs demand a trial by jury of any and all issues in this action so triable of right.

DATED the 14th day of July, 2021.

¶

ANDERSON & KARRENBERG

*/s/ Deborah R. Chandler*

Deborah R. Chandler

Samantha E. Hawe

*Attorneys for Plaintiffs and Proposed Class*

EXHIBIT A



May 3, 2021

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*Via Hand Delivery*

Board of Regents  
Utah System of Higher Education  
The Gateway  
60 South 400 West  
Salt Lake City, Utah 84101

Rebecca Lee  
Administrative Assistant  
State of Utah  
350 N. State Street, Suite 230  
Salt Lake City, Utah 84114

Re: NOTICE OF CLAIM

Dear Board of Regents:

This is a Notice of Claim pursuant to Utah Code 63G-7-401 (the "Notice"), against the Utah System of Higher Education and Harris H. Simons, Chairman of the Board of Regents, both located at the above address for the reasons stated in detail herein.

Claimants

This Notice is filed on behalf of Ariiyana Ringgold and Miles Ramsey (collectively "Claimants"). Ms. Ringgold is an undergraduate student who was enrolled with, and paid for on-

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ANDREW R. HALE  
*Attorney*

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campus enrollment at, Dixie State University for the Spring 2020 semester. Mr. Ramsey is a graduate student who was enrolled with, and paid for on-campus enrollment at the University of Utah. Claimants are submitting this Notice on behalf of themselves and all other individuals similarly situated who were enrolled at the Universities<sup>1</sup> under the control of the Board, and their branch campuses (collectively the “Universities”) during the Spring 2020 semester and Summer 2020 semester, when in-person face to face education was not provided to students (the “Class”).

The exact number of the Class is unknown. The Universities have collectively reported an enrollment size of over 150,000 students for the 2019-2020 academic year. The number of students enrolled at the Universities during the Summer 2020 semester and all future semesters is unknown by Claimants. The Board should be able to obtain the enrollment figures upon investigation of its own records.

### Statement of Facts

The Claimants and the Class paid tuition, housing, and/or mandatory fees during the semesters at one of the Universities.

#### A. Tuition

Claimants and the Class paid tuition costs for the Spring 2020 and Summer 2020 semesters in order to obtain an in-person on-campus live education, and to receive a full semester of classes. In mid-March 2020, through a series of news updates via email and website announcements in response to the Coronavirus Disease (“COVID-19”) pandemic, the Universities cancelled all in-person classes by moving solely to an online remote learning format for the remainder of the Spring 2020 semester, and for the entirety of the Summer 2020 semester.

Instead of the traditional and contracted for in-person lectures, labs, tutoring, mentoring, access to teachers and teaching assistants and materials, etc., students were provided with a materially different and insufficient alternative. Specifically, some classes provided for live Zoom lectures, some classes provided pre-recorded lectures, and some classes stopped providing lectures altogether, relying solely on the student to do the required reading and turn in assignments when due. The latter two options provide for substantially different product offerings, as there is no real-time dialogue or analysis of the work assigned. The different product provided after the

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<sup>1</sup> Bridgerland Technical College, Davis Technical College, Dixie State University, Dixie Technical College, Mountainland Technical College, Ogden-Weber Technical College, Salt Lake Community College, Southern Utah University, Snow College, Southwest Technical College, Tooele Technical College, Uintah Basin Technical College, University of Utah, Utah State University, Utah Valley University, and Weber State University.



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Universities transitioned to online learning translates directly into a marked decrease in the marketed, promised and/or contracted for value of the in-person education, experience, and access.

B. Housing

Members of the Class paid for housing for the Spring 2020 semester. Housing costs at the Universities were approximately the same amount, and can easily be determined upon the Board's investigation of its own records. The Universities strongly encouraged students not to return to campus after transitioning to remote online learning, and provided a strict move out date in order to obtain a refund.

Upon information and belief, the Universities had similar policies instructing students to move out by a strict move-out date in order to obtain a refund. Students who were unable to move out prior to that date should receive a pro-rata refund from the date that they left campus.

C. Mandatory Fees

Claimants and the Class paid mandatory fees for the semester, which fees vary among the Universities. Access to many of these benefits were non-existent due to the Board's and Universities' responses to the COVID-19 pandemic. The Universities closed certain facilities, which in turn ceased access to, and availability of, certain services on campus. This included limited access to facilities and services for which Claimant and the Class paid fees for. The Board has not ordered, and the Universities have not issued, any refund for the mandatory fees paid by Claimant or the Class.

Claims

Claimant, on behalf of themselves and the Class, bring claims against the System and Mr. Simons for breach of contract; violation of the Takings Clause - 42 U.S.C. § 1983; violation of due process - 42 U.S.C. § 1983; unjust enrichment; and conversion.

The payment of tuition, housing, and mandatory fees were made in express exchange for in-person education, university housing, and access to certain services and facilities as explained herein and in Universities' materials and websites, throughout the entire semester. The Universities have failed to provide such in-person education, housing, or access to those facilities and services.

The funds provided to the Universities in the form of tuition, housing and fees paid by Claimant and the Class are property of Claimant and the Class. The funds were being held by the Universities in exchange for in-person live education and access to certain facilities and services. As the in-person live education and access to facilities and services ceased, the retention of the property (funds) of Claimant and the Class qualify as an unjust taking of their private property without notice or due process of law, in violation of the Utah and United States Constitutions.

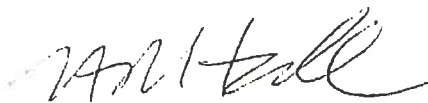
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In the alternative, Claimant, and the Class each provided payment for the above benefits, which benefits were not provided and promised by the Universities. By failing to refund the prorated amount equal to the time that class was held remotely online, that students were encouraged to leave housing, and that services and facilities were closed or severally limited, the Universities are unjustly enriched to the detriment of Claimant and the Class.

Said another way, Claimant and the Class provided payment for the above benefits, which promised benefits were not provided. Requests have been made for refunds and reimbursements. Refunds and reimbursements were denied in whole or in part. The failure to provide a refund to Claimant and the Class, and the retention of the tuition, housing, and mandatory fees is an unlawful monetary deprivation of Claimant and the Class by the Universities.

For the aforementioned reasons, the Claimant, on behalf of themselves and the Class, herein described, issue this Notice to the Board of Regents for the Utah System of Higher Education.

Very truly yours,



Andrew R. Hale

# ClassAction.org

This complaint is part of ClassAction.org's searchable class action lawsuit database and can be found in this post: [Utah System of Higher Education Owes Refunds for Semesters Moved Online Amid Pandemic, Lawsuit Claims](#)

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