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8 **STATE OF WASHINGTON**
 KING COUNTY SUPERIOR COURT

9 STATE OF WASHINGTON,

10 Plaintiff,

11 v.

12 NAVIENT CORPORATION;
13 NAVIENT SOLUTIONS, INC.;
14 PIONEER CREDIT RECOVERY,
15 INC.; and GENERAL REVENUE
16 CORPORATION,

17 Defendants.

NO.

COMPLAINT

18 **I. PLAINTIFF**

19 1.1 The Plaintiff is the State of Washington.

20 1.2 The Attorney General is authorized to commence this action pursuant to
21 RCW 19.86.080, and RCW 19.86.140. The Attorney General brings this action to address
22 practices that violate the Consumer Protection Act relating to the origination, servicing, and
23 collection of student loans.

24 **II. DEFENDANTS**

25 2.1 In 1972, Congress created the Student Loan Marketing Association (commonly
26 referred to as Sallie Mae), a government sponsored enterprise ("GSE"). It was designed to
support the guaranteed student loan program created by the Higher Education Act of 1965. In

1 1984, the GSE Sallie Mae became a publicly-traded company, trading under the ticker symbol
2 SLM. From approximately 1997 to 2004, Sallie Mae transitioned into a private company. As
3 part of that process, SLM Holding Corporation was incorporated and eventually became SLM
4 Corporation.

5 2.2 By 2004, Sallie Mae became fully privatized with SLM Corporation as the
6 parent company and subsidiary Sallie Mae, Inc. responsible for most of the company's
7 servicing and collections businesses.

8 2.3 From 2004 until April 2014, SLM Corporation and its subsidiaries conducted
9 the full spectrum of student lending business activities – including originating Federal Family
10 Education Loan Program (“FFEL” or “FFELP”) and private loans, developing and
11 implementing lending policies, marketing student loans and loan packages to schools and
12 students, funding and distributing loans, and then servicing and collecting loans – under one
13 corporate structure. In 2014, these business activities were split into two separate corporate
14 structures.

15 2.4 In April 2014, the former SLM Corporation separated into two publicly-traded
16 entities: (1) a servicing and debt collection business (Navient Corporation); and (2) a student
17 lending business (a new SLM Corporation). As part of this corporate split, the student loan
18 origination business was transferred to a newly-created SLM Corporation and its subsidiaries.

19 2.5 Defendant Navient Corporation (“Navient Corp.”) is a Delaware corporation
20 with its principal executive offices located in Wilmington, Delaware. Pursuant to the terms of
21 the 2014 split, Navient Corp. assumed responsibility for liabilities resulting from certain pre-
22 split conduct of old SLM Corporation and its subsidiaries, including the origination, servicing,
23 and debt collection conduct described in this Complaint. Defendant Navient Corp. is therefore
24 included in this Complaint for origination, servicing, and collection-related conduct prior to
25 2014. Upon information and belief, liability for certain consumer banking practices not
26

1 included in this complaint did not follow Navient Corp. in the split, but rather stayed with
2 Sallie Mae Bank.

3 2.6 As part of this split, Sallie Mae, Inc. was transferred to Navient Corp. and its
4 subsidiaries. Sallie Mae, Inc. then changed its name to Navient Solutions, Inc.

5 2.7 Defendant Navient Solutions, Inc. ("NSI" or "Navient"), a wholly-owned
6 subsidiary of Navient Corp., is a corporation headquartered in Wilmington, Delaware. Today
7 NSI services more than \$300 billion in student loans for more than 12 million borrowers,
8 including numerous borrowers in Washington. Allegations in this Complaint may be made
9 against either Sallie Mae, Inc. or NSI, but all such allegations are attributable to named
10 Defendant NSI. Upon information and belief, Navient engaged in the unfair or deceptive
11 practices described below while servicing student loans owed by Washington borrowers.

12 2.8 Defendant Pioneer Credit Recovery, Inc. ("Pioneer"), a wholly-owned
13 subsidiary of Navient Corp., is a corporation based in Arcade, New York. Pioneer principally
14 engages in debt collection activities related to student loans. Pioneer is a licensed debt
15 collection company in Washington and collects loans owed, or alleged to be owed, by residents
16 of Washington. Upon information and belief, Pioneer engaged in the unfair or deceptive
17 practices described below while collecting student loans owed by Washington borrowers.

18 2.9 Defendant General Revenue Corporation ("GRC") is a wholly-owned
19 subsidiary of Navient Corporation and an Ohio corporation with its offices based in Mason,
20 Ohio. GRC engages in debt collection activities related to outstanding and delinquent student
21 loans on behalf of several owners of federal student loans. GRC is a licensed debt collection
22 company in Washington, and collects loans owed, or alleged to be owed, by residents in
23 Washington. Upon information and belief, GRC engaged in the unfair or deceptive practices
24 described below while collecting student loans owed by Washington borrowers.

25 2.10 Navient Corp. consents to, and with knowledge approves of, directs, and
26 controls the policies, practices, and acts of NSI, Pioneer, and GRC described herein, including

1 through the placement of its directors and officers in key positions at those subsidiaries. For
2 example:

3 a. One person simultaneously served as President and Chief Executive
4 Officer for both Navient Corp. and NSI, as well as on Navient Corp.'s Board of Directors.

5 b. Another person simultaneously served as Chief Operating Officer for
6 both Navient Corp. and NSI.

7 c. Another person simultaneously served as Chief Financial Officer for
8 both Navient Corp. and NSI.

9 d. Another person simultaneously served as Chief Risk Officer for both
10 Navient Corp. and NSI.

11 e. Another person simultaneously served as Senior Vice President and
12 Treasurer for both Navient Corp. and NSI.

13 f. Another person simultaneously served as Vice President and Secretary
14 for Navient Corp. and Vice President, Associate General Counsel and Assistant Secretary for
15 NSI.

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

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

20 2.11 Navient Corp. issues consolidated annual reports and SEC filings which include
21 NSI, Pioneer and GRC. In addition, Navient Corp. issues consolidated financial statements
22 and balance sheets for itself, and its subsidiaries including NSI, Pioneer and GRC.

23 2.12 Navient Corp. owns or leases the offices used by its subsidiaries, including NSI,
24 Pioneer, and GRC.

25 2.13 For purposes of this Complaint, any references to the acts and practices of
26 Defendants Navient Corp., NSI, Pioneer and GRC ("Defendants") shall mean that such acts

1 and practices are by and through the acts of Defendants' members, owners, directors,
2 employees, salespersons, representatives and/or other agents.

3 **III. JURISDICTION**

4 3.1 The State files this complaint and institutes these proceedings under the
5 provisions of the Consumer Protection Act, RCW 19.86.

6 3.2 The Defendant has engaged in the conduct set forth in this Complaint in King
7 County and elsewhere in the state of Washington. Personal jurisdiction is therefore appropriate
8 under RCW 19.86.160.

9 **IV. VENUE**

10 4.1 Venue is proper in King County pursuant to RCW 4.12.020 and 4.12.025, and
11 Superior Court Civil Rule 82 because Defendants transact business in King County – to wit:
12 originating, servicing and collecting on student loans owed by borrowers in King County.

13 **V. FACTS**

14 5.1 Navient Corp. (and its predecessors and assignors) have originated numerous
15 FFEL and private student loans in Washington. NSI serviced and services federal and private
16 student loans for numerous borrowers living in Washington. Pioneer and GRC have also
17 collected on numerous defaulted student loans of borrowers living in Washington. Upon
18 information and belief, Navient Corp., NSI, Pioneer, and GRC engaged in the acts and
19 practices described below when originating, servicing, and collecting upon the student loans of
20 Washington borrowers.

21 **A. Background On Federal Student Loans**

22 5.2 As used in this complaint, "federal student loans" are those student loans funded
23 or guaranteed by the federal government.

24 5.3 In 1965, Congress passed the Higher Education Act, Title IV of which
25 addressed financial assistance to students. The 1972 reauthorization of the Higher Education
26

1 Act expanded aid to students entering junior colleges as well as trade schools and career
2 colleges.

3 5.4 The federal government sought to give the United States a competitive
4 advantage in the global economy by creating a highly-skilled workforce, and to ensure that
5 low-income, middle-income, and minorities have access to quality higher education, often seen
6 as the building blocks of prosperity and a solid middle class.

7 5.5 Federal student loans have unique characteristics and features, including that (a)
8 they are primarily need-based and made to borrowers regardless of credit history, so that
9 approval is automatic if the student meets program requirements; (b) their interest rate is
10 capped by the federal government; and (c) they have a variety of repayment options available
11 to borrowers, including options that are linked to the borrower's income.

12 5.6 Due to these features, borrowers typically access federal student loans before
13 private student loans. Federal student loans make up nearly 90% of the student loan market.

14 5.7 Over time, the method by which the federal government has provided student
15 loans has changed. Until approximately 1994, federal loans were almost exclusively originated
16 and funded by private lenders, and guaranty agencies insured those funds. These guaranty
17 agencies were in turn reinsured by the federal government. This public-private partnership was
18 established under the Federal Family Education Loan Program (the "FFELP"). The federal
19 student loans given to borrowers through that program are called "FFELP loans."

20 5.8 In 1994, through the enactment of the William D. Ford Direct Student Loan
21 Program, the federal government began originating loans directly to borrowers, eliminating
22 private entities as the middleman. The federal student loans given to borrowers through that
23 program are called "Direct loans." The ramp-up of the Direct Loan program (and wind down
24 of FFELP originating) lasted until approximately 2010, when FFELP loans were eliminated as
25 a federal loan program. Loans made through the prior guarantee (FFELP) system of lending
26 still constitute more than 20% of outstanding student loans, or approximately \$335 billion.

1 5.9 Thus, while federal student loan origination is currently handled directly by the
2 federal government, private entities like Defendants historically played a major role in federal
3 student loan origination.

4 5.10 Federal student loans to students come in two main forms: (1) subsidized loans,
5 and (2) unsubsidized loans. For subsidized loans, the government generally pays the interest
6 while the borrower is in school. For unsubsidized loans, the borrower pays all of the interest.

7 5.11 When borrowers experience financial difficulty and cannot meet their standard
8 monthly payment obligation under the original terms set in the promissory note, federal student
9 loans come with a vast array of repayment options to fit a borrower's short-term and long-term
10 goals. These programs, discussed in more detail below, are generally referred to collectively
11 as "income-driven repayment," or "IDR," plans.

12 5.12 No matter what kind of federal student loan a borrower has, and no matter the
13 channel by which the government provided the loan to the borrower, the management or
14 "servicing" of federal student loans is administered by private entities, like Defendant NSI.

15 5.13 Federal student loan servicers handle a multitude of issues for borrowers,
16 including: collecting payments, providing repayment options to borrowers, and facilitating the
17 loan's payoff.

18 5.14 If a borrower does not make payments on her federal student loan for 270 days,
19 the loan is in default.

20 5.15 Once the federal loan defaults, it is typically assigned to a private debt
21 collection firm such as Defendants Pioneer and GRC.

22 5.16 Federal student loan borrowers generally have at least one opportunity to
23 remove loans from defaulted status without paying the entire balance, using processes called
24 "rehabilitation" or "consolidation."

1 5.17 Although federal student loans offer borrowers significant advantages, the
2 federal government also has unique powers in collecting on defaulted federal loans, such as
3 garnishing a borrower's wages and federal benefits like social security income.

4 5.18 Additionally, federal student loans can only be discharged in bankruptcy in
5 extremely limited circumstances.

6 **B. Background On Private Student Loans**

7 5.19 Private student loans are not made or guaranteed by the federal government, but
8 instead by private institutions. Private student loans are usually used to cover the gap between
9 the cost of higher education and the federal aid available to a borrower (together with grants,
10 scholarships, savings, or other sources for paying educational costs).

11 5.20 Private student loans are extended to borrowers by private institutions,
12 ostensibly based on the lender's assessment of the borrower's creditworthiness/likelihood of
13 repaying the loan.

14 5.21 The market for private student loans is substantially smaller than federal student
15 loans. Private loans constitute approximately 10-12% of the student loan market.

16 5.22 Private student loans are almost always more expensive than federal loans, often
17 involving origination fees and higher interest rates. Some private student loans come with
18 adjustable interest rates that fluctuate based on financial indexes, much like adjustable rate
19 mortgages.

20 5.23 Today, private student lenders generally require that borrowers obtain a
21 cosigner – often a family member – to obtain a private student loan. A cosigner is an additional
22 borrower who is equally responsible for the payments on the loan.

23 5.24 Many private student loan borrowers struggle to meet their monthly payment
24 amounts, but unlike federal loans, there are no standard income-driven repayment plans for
25 private student loan borrowers. Instead, alternative repayment plans for private student loans
26 are provided at the discretion of the servicer, with guidance from the lender or investor.

1 5.25 As with federal loans, the management of payments on the loan is handled by a
2 servicer. NSI services both federal and private student loans.

3 5.26 For private loans, the time during which the borrower can miss payments – i.e.,
4 be “delinquent” on the loan – before defaulting is set by the lender or servicer.

5 5.27 Once a private loan borrower defaults, the loan is often sent to a debt collector.
6 The federal options of “rehabilitation” and “consolidation” are not available to private
7 borrowers attempting to get out of default. Defaulted private student loan borrowers and
8 cosigners must pay the debt in full or reach a settlement with the debt collector.

9 5.28 Even though private student loans lack many of the borrower-friendly features
10 and benefits of federal student loans—including income-driven repayment programs and
11 standardized ways to get out of default—they can only be discharged in bankruptcy in
12 extremely limited circumstances. Thus, when private student loan borrowers are struggling to
13 make payments, they have very limited options.

14 **C. Defendants’ Conduct Related To The Origination Of Subprime Private Student**
15 **Loans**

16 5.29 From at least 2003 through 2007, SLM Corporation, acting through its various
17 subsidiaries, originated both FFELP and private student loans nationwide, including in
18 Washington. As part of the origination of these loans, SLM Corporation created and
19 implemented lending policies, marketed the loans to schools and borrowers, and disbursed the
20 loans. Upon information and belief, liability for practices relating to the origination of these
21 loans was transferred to Navient Corp. as part of the 2014 corporate split.

22 5.30 In its internal and external documents, SLM Corporation did not consistently
23 differentiate between its acts and practices and those of its subsidiaries, but referred to them all
24 as “Sallie Mae.”

25 5.31 Private loans were a vital component of Sallie Mae’s business. In its 2005
26 Annual Report, Sallie Mae explained that “[w]ith college costs rising and federal loan limits

1 not keeping pace, private education loans are the fastest-growing segment of our loan
2 business...In 2005, Private Education Loans contributed 25 percent of the overall net interest
3 income after provisions, up from 17% in 2004.”

4 5.32 From 2006-2007 Sallie Mae claimed 42% of the private student loan market by
5 pursuing an unfair and deceptive subprime lending strategy of providing expensive subprime
6 loans to vulnerable borrowers even though Sallie Mae knew many – even *most* – of those loans
7 would default. It did so to maintain lucrative relationships with schools to boost its bottom
8 line, while simultaneously insulating itself from the risk of those defaults and leaving the
9 borrowers saddled with debt they could not hope to repay.

10 5.33 Although Sallie Mae held itself out as a trusted resource for students who
11 needed some help to advance and achieve their educational and career goals, borrowers had no
12 idea many private loans Sallie Mae originated were likely to fail – and that Sallie Mae
13 expected them to fail.

14 5.34 While Sallie Mae has had the benefit of utilizing accounting practices to write
15 off these loans as a business loss, thousands of borrowers, including borrowers in Washington,
16 are living with and struggling to repay these debts.

17 **1. The Preferred Lending Era**

18 5.35 Until approximately 2007, many school financial aid offices maintained a list of
19 “preferred lenders” to provide guidance to students who had to choose between different
20 lenders offering federal and private student loans. Reasonably assuming that such a list
21 represented the wisdom of the financial aid office, students typically borrowed from the listed
22 lenders. In fact, the lenders listed on a school’s preferred lender lists typically received
23 upwards of 90% of the loan volume taken out by the institution’s students and their parents.

24 5.36 Establishing itself at the top of a preferred lending list was therefore vital to
25 Sallie Mae’s success, as it gave Sallie Mae exclusive or near-exclusive access to the school’s
26 population of borrowers.

1 5.37 After 2007, regulations were imposed on the practice of “preferred lending” due
2 to the many known and unmanaged conflicts of interest between lenders and financial aid
3 offices, which harmed student borrowers. These regulations required schools with preferred
4 lending lists to include at least three FFELP lenders and two private loan lenders (if they
5 promoted private loans).

6 5.38 Sallie Mae constructed custom “packages” for the schools to persuade them to
7 make it a “preferred lender.” These packages consisted of loan products designed to cover all
8 of a student’s financing needs: FFELP loans; private loans for borrowers who qualified for
9 Sallie Mae’s standard products (prime loans); and private loans for borrowers who were
10 ineligible for Sallie Mae’s standard loan products (subprime loans).

11 5.39 Marketing private loans as part of a package deal was appealing to both schools
12 and to Sallie Mae. For schools, it meant a streamlined way to ensure that the most students
13 could get funding to attend school, boosting enrollment. For Sallie Mae, it meant securing
14 federally guaranteed FFELP loan volume.

15 5.40 FFELP loan volume was valuable to Sallie Mae for two main reasons: First,
16 FFELP loans made up a much larger part of the market than private loans. Second, the federal
17 government insured close to 100% of the loan’s value, so Sallie Mae made money off the
18 interest income generated by the loan as it was repaid by the borrower while simultaneously
19 receiving the protection of a government guarantee if the borrower defaulted.

20 5.41 *Prime* private student loan volume was also valuable to Sallie Mae because they
21 typically had significantly higher interest rates than FFELP loans, and stood a good chance of
22 being repaid. This made them profitable in their own right.

23 5.42 Conversely, *subprime* private loans, with their high default rates, had virtually
24 no intrinsic value to Sallie Mae. Rather, these loans were used as “loss leaders” to close deals
25 with schools in order to secure placement on a school’s preferred lender list.

26 **2. Sallie Mae’s Sub-Prime Private Student Loan Strategy**

1 5.43 Sallie Mae generally defined subprime loans as "[REDACTED]
2 [REDACTED]". Sallie Mae's subprime lending strategy included loan programs designated
3 "Recourse/Risk Share" loans, "Opportunity" loans, "Tiered-Discount" loans, and "Advance
4 Rate Lending." These were unconventional loan programs designed to extend credit to
5 borrowers who Sallie Mae would not otherwise consider for traditional private loan financing.

6 5.44 Borrowers receiving subprime private Sallie Mae student loans were generally
7 given no indication that the loan came from one these subprime lending programs, or that
8 Sallie Mae expected that many or most borrowers in these subprime programs would not be
9 able to repay them.

10 5.45 Sallie Mae's subprime products had another commonality: high variable interest
11 rates of up to Prime +10%. In June of 2007, an interest rate of Prime +10% equated to a
12 15.75% interest rate.

13 5.46 In addition to high interest rates, some of the loans came with origination fees
14 as high as 9%. The origination fee was often added to the principal balance of the loan at
15 disbursement.

16 5.47 The high interest rates and high origination fees worked in concert to
17 significantly increase the cost of the loan. For example, a loan with a \$10,000 balance and a
18 9% origination fee would have a balance at disbursement of \$10,900. If that loan also carried
19 an interest rate of Prime +10%, the borrower paid an extraordinarily high interest rate on a
20 larger balance over the life of the loan.

21 5.48 As explained further below, Sallie Mae unfairly and deceptively engaged in a
22 series of acts and practices to facilitate originating expensive, predatory loans to many
23 borrowers who had little chance of repaying them.

24 **3. Sallie Mae Strategically Used Subprime Loans As "Loss Leaders" To Draw**
25 **In FFELP Volume**

1 5.49 In February, 2007 Sallie Mae internally described its subprime lending strategy
2 as follows: "[REDACTED]

3 [REDACTED]"

4 5.50 In short, as long as the overall "package" of loan products made to a school –
5 dominated by federally guaranteed FFELP loans – was profitable, Sallie Mae did not require
6 individual loan types included in the package to be profitable. The unlikelihood of repayment
7 by most of the school's subprime loan borrowers was only a secondary concern for Sallie Mae
8 – particularly since the federal government was on the hook for the much larger FFELP loans
9 those same "subprime" borrowers took out.

10 5.51 One subprime loan product that Sallie Mae used as a loss leader to spike its
11 growth in the subprime market was the "Opportunity" loan.

12 5.52 [REDACTED]
13 [REDACTED]
14 [REDACTED]
15 [REDACTED]

16 5.53 The strategy worked. [REDACTED]
17 [REDACTED]
18 [REDACTED]
19 [REDACTED]
20 [REDACTED]

21 5.54 A 2007 investigation by the U.S. Senate Committee on Health, Education,
22 Labor & Pensions (HELP Committee) into preferred lending relationships including Sallie
23 Mae's Opportunity loans cited in its "Second Report on Marketing in the Federal Family
24 Education Loan Program":

25 Sallie Mae calculations...show for Opportunity Loans offered to a particular
26 college an expected default rate of 70%, an expected yield of negative 9%, and an
estimated return on equity of negative 3%. Clearly, these funds are considered a

1 marketing expense rather than a profit center....Internal Sallie Mae documents
2 show that the company used Opportunity Loan funds as a bargaining chip to trade
for expanded FFEL market share.

3 5.55 The report also revealed that Sallie Mae's Opportunity loans were provided to at
4 least one university "in exchange for expanded FFEL market share..." for several years.

5 5.56 Even as Sallie Mae considered altering its subprime lending practices, the
6 associated prime volume that subprime loans generated remained a key consideration.

7 5.57 A January 24, 2007 internal Sallie Mae strategy document entitled "[REDACTED]
8 [REDACTED]" explained that Sallie Mae's voluminous subprime lending to students at
9 for-profit schools generated such "[REDACTED]
10 [REDACTED]" that any decision to change subprime lending practices could not "[REDACTED]
11 [REDACTED]"

12 5.58 In order to generate profits from its prime private and FFELP loan volume,
13 Sallie Mae made the conscious decision to trap numerous subprime borrowers in student debt
14 they would never escape.

15 **4. Sallie Mae Loosened Credit Standards To Give Expensive Loans To**
16 **Students Who Could Not Afford Them**

17 5.59 In order to gain access to FFELP volume and schools' traditional "prime"
18 students, Sallie Mae provided loan packages to the school to cover non-prime student
19 borrowers, and loosened its credit standards to achieve this end.

20 5.60 For example, [REDACTED]
21 [REDACTED]

22 5.61 [REDACTED]
23 [REDACTED]
24 [REDACTED]
25
26

1 5.62 [REDACTED]

2 [REDACTED]

3 [REDACTED]

4 5.63 [REDACTED]

5 [REDACTED]

6 [REDACTED]

7 [REDACTED]

8 [REDACTED]

9 [REDACTED]

10 [REDACTED]

11 [REDACTED]

12 [REDACTED]

13 5.64 Sallie Mae also lent to numerous borrowers attending schools with low
14 graduation rates, including schools with less than 50% graduation rates. Although graduation
15 is a key predictor of a student loan borrower's ability to repay the loan, Sallie Mae only curbed
16 lending practices to those borrowers who had little chance of repaying after 2008.

17 5.65 In a January 23, 2008 investor earnings call, Sallie Mae explained the
18 importance of graduation rate to loan performance. "...Graduation is critical. Sallie Mae has
19 lent too much money to students who have gone to schools without very good graduation
20 records. Such students at such schools are virtually singly responsible for 60% of the '07 credit
21 losses..."

22 5.66 One 2009 lawsuit against Sallie Mae alleged that the its then-CEO summarized
23 the company's private student loan underwriting standards in a 2007 internal executive
24 meeting by stating "If the borrower can create condensation on a mirror, they need to get a loan
25 this year."

26

1 **5. Sallie Mae's Subprime Strategy Caused A Spike In Subprime Lending,**
2 **Which Resulted In Extraordinarily High Default Rates**

3 5.67 Sallie Mae's primary private student loan product was called the Signature
4 Student loan. These were Sallie Mae's standard, "bread and butter" loans, making up a
5 majority of Sallie Mae's private student loan origination.

6 5.68 In 2000, Sallie Mae originated Signature Student loans to approximately [REDACTED]
7 borrowers. By 2006, Sallie Mae originated the same loan to over [REDACTED] borrowers. That
8 change in originations represents more than a [REDACTED] increase.

9 5.69 Sallie Mae also sold a Career Training loan to borrowers in "alternative learning
10 programs." Borrowers who attended trade or vocational schools would be more likely to
11 receive a Career Training loan.

12 5.70 The Career Training product experienced a similar—though smaller—boom in
13 originations. In 2000, Sallie Mae originated the Career Training loan to over [REDACTED] people.
14 By 2006 those originations had jumped to over [REDACTED] borrowers.

15 5.71 These increases were driven not by significant increases in lending to students
16 who qualified for traditional "prime" loans, but by a spike in loans to the vulnerable subprime
17 borrowers – often at schools with low graduation rates – that Sallie Mae exploited to secure
18 "preferred lending" status with schools.

19 5.72 In 2000, Sallie Mae extended Signature Student Loans to approximately [REDACTED]
20 borrowers who (1) attended *for-profit* schools with graduation rates less than 50% and with
21 FICO scores of 640 or less, and (2) were given loans with interest rates at Prime +6% or higher
22 (or a LIBOR equivalent) or origination fees of 9% or higher.

23 5.73 By 2006, Sallie Mae increased its subprime originations to borrowers exhibiting
24 those same characteristics to approximately [REDACTED] borrowers – nearly a [REDACTED] increase.

25 5.74 In 2000, Sallie Mae extended Signature Student Loans to approximately [REDACTED]
26 borrowers who (1) attended *non-profit* schools with graduation rates less than 50% and with

1 FICO scores of 640 or less, and (2) were given loans with interest rates at Prime +6% or higher
2 (or a LIBOR equivalent) or origination fees of 9% or higher.

3 5.75 In 2006, Sallie Mae increased its subprime originations to borrowers exhibiting
4 those same characteristics to approximately [REDACTED] borrowers.

5 5.76 Similar, though less steep, trends exist for the Career Training loan.

6 5.77 Unsurprisingly, Sallie Mae loans exhibiting those subprime characteristics
7 defaulted at extraordinarily high rates.

8 5.78 In every year from 2000 to 2007, borrowers with Signature Student loan or
9 Career Training loans exhibiting the subprime characteristics described above defaulted at
10 rates between [REDACTED] and [REDACTED].

11 5.79 For example, in 2006, the overall percentage of borrowers who defaulted on a
12 Signature Student loan was approximately [REDACTED]. But the percentage of borrowers who
13 attended for-profit schools with below-50% graduation rates, who had FICO scores below 640,
14 and who were given loans with high interest rates or fees was approximately [REDACTED].

15 5.80 Although borrowers given risky subprime loans over the relevant time period
16 had no idea that they were far more likely to default than pay back their loans, this fact was no
17 secret to Sallie Mae.

18 5.81 For example, an internal Sallie Mae strategy document identifies one of the
19 "cons" of Opportunity loans as their "[REDACTED]"

20 5.82 Senior personnel at Sallie Mae even discussed not disclosing these high default
21 rates to schools. For example, [REDACTED]

22 [REDACTED]

23 [REDACTED]

24 [REDACTED]
25 [REDACTED]
26 [REDACTED]

1 [REDACTED]
2 [REDACTED]
3 [REDACTED]
4 5.83 In other instances, Sallie Mae openly discussed high default rates with schools.
5 [REDACTED]
6 [REDACTED]
7 [REDACTED]
8 [REDACTED]
9 [REDACTED]
10 [REDACTED]
11 [REDACTED]
12 (Emphasis added.)

13 5.84 Unfortunately, after Washington borrowers are trapped in student loans they
14 cannot afford – whether as a result of subprime lending or otherwise – they report that NSI
15 routinely fails to work with them to agree to formulate a repayment plan under which they can
16 make payments. For example, one Washington borrower wrote: “They won’t work with me. I
17 have even went through with them and shown them that don’t make enough to make my
18 payment but they still won’t work with me. I don’t know what to do. Please help me....”
19 Another borrower stated: “I have called and spoke with several representatives at Sallie Mae.
20 They have been given all my income and bills monthly, they know that I can not afford to
21 make the payments monthly that they are asking for. I have a cosigner on these loans who is
22 retired and also has no extra to offer to help me monthly. Sallie Mae has been in
23 correspondence with her as well and has all of her income and bills monthly, so they have all
24 the facts but have yet to help me with a solution for my loans while I am in this financial
25 hardship.”
26

1 **6. Sallie Mae Protected Itself Financially From High Default Rates While**
2 **Leaving Borrowers on the Hook**

3 5.85 Although borrowers were fully liable for the repayment of their high cost,
4 predatory loans, Sallie Mae insulated itself from the economic consequences of these defaults –
5 over and above its profit from the associated FFELP and prime private loan volume. It did so
6 using tools like “credit enhancement” and “recourse.”

7 5.86 In a “credit enhancement” scenario, the school provided a portion of the money
8 to fund the loan upfront. In a school “recourse” scenario, the school agreed to cover a certain
9 percentage of default for the amount financed.

10 5.87 **Credit Enhancement.** According to an August 22, 2007 memo entitled
11 “ [REDACTED]
12 [REDACTED] Sallie Mae described certain loan
13 origination agreements requiring schools to provide credit enhancements “ [REDACTED]
14 [REDACTED]”

15 5.88 The memo explains that “ [REDACTED]
16 [REDACTED]
17 [REDACTED]”

18 5.89 Finally, the memo states, “[REDACTED]
19 [REDACTED]
20 [REDACTED]
21 [REDACTED]
22 [REDACTED]”

23 5.90 Thus, unbeknownst to the borrower, Sallie Mae made a deal with the school to
24 fund part of the borrower’s loan because Sallie Mae expected the borrower would not be able
25
26

1 to repay it. Of course, when the borrower could not repay, Sallie Mae attempted to collect the
2 full amount.

3 **5.91 Recourse Agreements.** Sallie Mae also entered into “recourse agreements”
4 with some schools. According to the terms of those recourse agreements, the school agreed to
5 bear some of the risk of default for the private student loans Sallie Mae originated.

6 **5.92** For example, Sallie Mae had a recourse agreement with the for-profit school
7 parent company Career Education Corporation (CEC) under which CEC agreed to pay for 20%
8 of the defaults on private student loans Sallie Mae provided to its students.

9 **5.93** Sallie Mae entered into recourse agreements, unbeknownst to borrowers, to
10 protect itself from the high likelihood of default, while providing little-to-no help to borrowers
11 in avoiding the expected defaults.

12 **5.94** Sallie Mae drastically increased its subprime lending from 2000 to 2009 in
13 order to secure placement on school’s preferred lender lists and guarantee near exclusive
14 access to profitable FFEL and prime private loan volume, including, upon information and
15 belief, loan volume generated from Washington borrowers. Sallie Mae was willing to accept
16 high rates of default by borrowers it trapped in subprime loans because those loans served
17 effectively as loss leaders for profitable loan volume.

18 **D. DEFENDANTS’ CONDUCT RELATED TO THE SERVICING OF STUDENT**
19 **LOANS**

20 **1. Unfair or Deceptive Practices Relating to “Cosigner Release”**

21 **5.95** A cosigner is generally necessary for a borrower to obtain a private student
22 loan, or to obtain that loan with more favorable terms.

23 **5.96 Navient Promotes “cosigner Release” to Entice Family Members to Cosign**
24 **Private Student Loans.** NSI promoted the use of cosigners for primary student borrowers,
25 explaining that it was sometimes necessary to get a loan at all, and that a cosigner with good
26 credit would allow the borrower to received a lower interest rate. Cosigners were useful to

1 NSI and its affiliated debt collectors, as both (a) a second source of payments if the borrower
2 experienced financial hardship, and (b) a source of leverage to negotiate a payment with a
3 borrower struggling to make it. Training materials explain that "[REDACTED]

4 [REDACTED]

5 [REDACTED]

6 [REDACTED]"

7 5.97 NSI's website provided guidance to potential private student loan borrowers
8 concerning how to ask family and friends to cosign student loans, instructing students to
9 emphasize the potential for cosigner release: "**Be sure to remind your cosigner about Sallie**
10 **Mae's cosigner release.** . . . If approved, your cosigner has helped you when you needed it
11 the most and is now released from the responsibility for the remainder of the loan." (Emphasis
12 in original.) Loan rejection letters encouraging borrowers to re-apply with cosigners also
13 emphasized that [REDACTED]

14 [REDACTED]

15 [REDACTED]

16 [REDACTED]

17 [REDACTED]

18 [REDACTED]

19 [REDACTED]"

20 5.98 Upon information and belief, due to NSI's promotion of cosigner release at the
21 origination of loans, the availability of cosigner release was a material consideration for many
22 Washington residents who chose to cosign private student loans taken out by their children,
23 grandchildren, other relations, or friends. However, NSI created artificial barriers to attaining
24 cosigner release, and as a result, the "benefit" is deceptively difficult to attain and largely
25 illusory.
26

1 5.99 Once a borrower enters repayment on his or her private student loan, he or she
2 can apply to release the cosigner from the loan after meeting certain eligibility criteria. This
3 feature is generally available to most NSI borrowers with cosigned private student loans.

4 5.100 Since at least January 2010, one of NSI's eligibility criteria for cosigner release
5 has been that the borrower must make a minimum number of consecutive, on-time payments
6 consisting of both principal and interest. Since January 21, 2014, NSI has required the
7 borrower to "make 12 consecutive, on-time principal and interest payments" before applying
8 for cosigner release. Prior to January 21, 2014, and depending on the applicable terms of the
9 borrower's loan, NSI required borrowers to make between 12 and 48 "consecutive, on-time
10 principal and interest payments" before applying for cosigner release. NSI did not specifically
11 define for borrowers what it meant by "consecutive" or "on-time" payments, and applied these
12 terms to deny cosigner release in ways that reasonable borrowers could not have anticipated.

13 5.101 **Advancing the Due Date and "Paid Ahead" Status.** A borrower in
14 repayment will sometimes make a payment that is a multiple of the monthly payment amount
15 due. For example, a borrower whose monthly payment amount due is \$100 may choose to pay
16 \$300 instead of \$100. When a borrower makes such a "multiplier overpayment," NSI
17 generally applies the payment to satisfy the borrower's current monthly payment due, and then
18 places the borrower in a "paid ahead" status for the subsequent months that have also been
19 satisfied by the excess payment.

20 5.102 For each month that the borrower is in a "paid ahead" status, NSI sends a bill
21 indicating that the payment due for that month is \$0 because the borrower is not required to
22 make any payment in order to remain current on his/her loan. But until at least mid-2015, for
23 purposes of cosigner release NSI treated the lack of payment by a borrower in response to a \$0
24 bill as a failure to make a "consecutive, on-time" payment that month. NSI "reset" the
25 borrower's progress toward the "consecutive, on-time principal and interest payments"
26 requirement to zero.

1 5.103 For example, if a borrower's monthly amount due is \$100 and she paid exactly
2 \$100 each month from January through September, NSI would have considered her to have
3 made nine consecutive, on-time payments. If she then submitted a \$200 payment in October
4 2014, received a \$0 bill for November and submitted no payment in response because none
5 was due, and made her regular \$100 payment in December, NSI would have reset her progress
6 toward the "consecutive, on-time" payment requirement for cosigner release and considered
7 her to have made only one (1) "consecutive, on-time" payment as of December – even though
8 she never missed or was late on a required payment.

9 5.104 NSI treats multiple, separate payments made in the same billing cycle the same
10 way – they are applied to advance the borrower's due date for the next payment, and do not
11 count as consecutive, on-time payments for cosigner release. Thus, if a borrower makes his or
12 her monthly payment too early, NSI will not count it as a "consecutive, on-time" payment. By
13 way of example, one borrower was denied cosigner release because she submitted a payment
14 on July 25, too far in advance of her due date in August.

15 5.105 This is contrary to NSI's statement to borrowers that they can apply for cosigner
16 release if they make a certain number of "consecutive, on-time ... payments." The requirement
17 is only that the "on-time ... *payments*" must be consecutive – not that the "months" or "billing
18 cycles" in which on-time payments are made must be consecutive. The requirement does not
19 even refer to months or billing cycles. NSI has thus misled borrowers by stating that they must
20 make twelve "consecutive, on-time principal and interest payments" before applying for
21 cosigner release. NSI failed to disclose that it interpreted and applied this requirement in a
22 manner significantly different from the plain language of its representations, and in a manner
23 detrimental to borrowers. Nothing on NSI's billing statement, its website, or any other
24 consumer-facing document advised borrowers that making no payment in response to a \$0 bill
25 could impact their eligibility for cosigner release.

1 5.106 By resetting borrowers' progress toward the "consecutive, on-time ...
2 payments" requirement to zero when they submitted no payment in response to a \$0 bill as a
3 result of a previous multiplier overpayment, NSI denied or delayed cosigner release for
4 borrowers who had already satisfied the requirement as NSI described it or had made progress
5 towards doing so.

6 5.107 [REDACTED]
7 [REDACTED]
8 [REDACTED]

9 5.108 But at least in 2010, Navient's website stated, however, "You can apply to
10 release your cosigner after you graduate and **demonstrate that you can handle** principal and
11 interest payments."

12 5.109 Many borrowers who pay ahead can, in fact, demonstrate an ability to handle
13 principal and interest payments, but Navient's policies and procedures do not sufficiently
14 recognize those borrowers for purposes of cosigner release.

15 5.110 NSI's form letter for cosigner release denial contains macros that its employees
16 fill in to explain the reason for the denial. These macros include several iterations of the
17 consecutive on-time payments issue, neither of which explains why payments that a reasonable
18 borrower would consider to be "on time" – discussed above – actually disqualify the loan from
19 cosigner release, or how a borrower can change his or her payment practices to fall within
20 NSI's undisclosed requirements:

21 a. "[REDACTED]
22 [REDACTED]"

23 b. "[REDACTED]
24 [REDACTED]"

25 5.111 The NSI executive who oversees the cosigner release processing team admitted
26 that [REDACTED] NSI therefore

1 | deceptively deprived borrowers of the information necessary to make a plan to qualify for
2 | cosigner release.

3 | 5.112 A borrower would reasonably believe by making payments ahead of time, they
4 | are more than demonstrating that they can handle their payments. By using this paid-ahead
5 | policy, and not informing borrowers of the consequences for paying ahead, NSI leads
6 | responsible borrowers into a trap to have to make more payments to qualify for cosigner
7 | release.

8 | 5.113 **Payments During the Monthly “Grace Period.”** One NSI executive testified
9 | that payments made during the loan’s monthly “grace period” but after the due date are not
10 | considered “on time” for the purposes of cosigner release. Thus, if a borrower’s due date is the
11 | first day of the month, but he or she gets paid on the fifth day of each month, and therefore
12 | schedules an automatic withdrawal from his or her account on the sixth day of every month,
13 | Navient will *never* consider that borrower to have made an on-time payment for the purposes
14 | of cosigner release. A reasonable borrower would have no basis to believe that those payments
15 | would not qualify as “one time” for purposes of cosigner release.

16 | 5.114 Moreover, NSI’s model response to a borrower’s request for information on the
17 | requirements for cosigner release states “[REDACTED]
18 | [REDACTED]” This information is deceptive, because it fails to
19 | inform borrowers that making a single payment a single day late – or, as demonstrated above,
20 | too early – would re-set the clock for the “consecutive, on-time” payment requirement.

21 | 5.115 In short, NSI’s deceptive communications regarding “on-time consecutive
22 | payments” requirements give borrowers who pay ahead, pay early, or pay during the grace
23 | period the mistaken impression that they are on their way to satisfying this cosigner release
24 | requirement. Although Navient changed some of its policies relating to what payments
25 | qualified as “consecutive, one time” payments during the course of the Attorney General’s
26 |

1 investigation, for long periods during the time relevant to this complaint, Navient's
2 representations relating to "on time, consecutive" payments were deceptive.

3 **5.116 Alternative Repayment Plans.** NSI also failed to disclose the effect on
4 eligibility for cosigner release when offering Washington borrowers lower payments in their
5 student loans. As one Washington cosigner explained, her son's promissory note required 24
6 consecutive, on-time principal and interest payments in the first two (2) years of repayment.
7 After graduation, her son accepted NSI's offer of lower payments, and although he made all of
8 them, his cosigner was told that she would not be eligible for cosigner release because the
9 payment plan NSI offered her son did not cover the full interest and principal for each month.

10 5.117 [REDACTED]
11 [REDACTED]
12 [REDACTED]

13 **5.118 Navient's Deceptive Application for Cosigner Release.** For borrowers who
14 meet NSI's initial screening criteria for cosigner release, the application and "underwriting"
15 process employed by NSI is also deceptive and unfair. [REDACTED]
16 [REDACTED]
17 [REDACTED]
18 [REDACTED]

19 5.119 Amounts included in the borrower's application for "[REDACTED]"
20 are to be included: "[REDACTED]"
21 [REDACTED]
22 [REDACTED]" [REDACTED]
23 [REDACTED]
24 [REDACTED]
25 [REDACTED]
26 [REDACTED]

1 [REDACTED]
2 [REDACTED]
3 5.120 As a result of NSI's deceptive or unfair practices, only a tiny fraction of
4 cosigners ever qualified for, much less received, cosigner release. As noted above, NSI's
5 practices for establishing eligibility for cosigner release, and the deceptive manner in which
6 these practices were communicated to Washington borrowers and cosigners, rendered cosigner
7 release – a feature that figured prominently in NSI's marketing of private student loans – an
8 illusory benefit.

9 **2. Unfair Or Deceptive Practices Relating To The Receipt, Processing,**
10 **Application, And Allocation Of Borrower Payments**

11 5.121 One of NSI's primary responsibilities as a student loan servicer is to process
12 payments made by borrowers and cosigners on their student loan accounts.

13 5.122 Navient, however, failed to put systems in place that address the wide array of
14 application and allocation mistakes that it makes regarding the accounts of borrowers across
15 the country, including in Washington. As a result, Navient repeatedly fails to perform one of
16 its core servicing functions – properly applying and allocating borrower payments to
17 borrowers' loan accounts.

18 5.123 Washington borrowers and cosigners have complained that NSI misallocated or
19 misapplied submitted payments. (Errors in the allocation of payments relate to how a payment
20 is distributed across multiple loans, and errors in the application of payments relate to how a
21 payment is applied to a specific loan or loans based on the terms of each loan's promissory
22 note, for example, first to unpaid fees, then to unpaid interest, and then to unpaid principal.)
23 By way of example:

24 a. One borrower complained that her loans "are on autopay and I pay
25 more than the amount due each month. For the past two months, Sallie Mae has been
26 harassing me and my co-signor seeking to collect on past due balances. There are NO past due

1 balances, rather it's an error on their end in how they are applying my payments. Each time I
2 call it has taken me over 30 minutes with them to allegedly resolve the issue, only to have it
3 happen again the next month. I'm sick to death of dealing with these people when it's their
4 error."

5 b. Another borrower complained that although she had automatic
6 deductions from her bank account of an agreed-upon payment every month, each month NSI
7 applied the payment to only 5 of her 6 loans, she and her cosigner received automated
8 collection calls every month, and she had to call in each month to get the payment allocated
9 properly.

10 c. One borrower complained that after changing the bank account
11 information on her automatic debit, NSI failed to inform her that the payment would not go
12 through for her next month's payment, necessitating a manual payment. The following month,
13 a NSI customer service representative told her that the automatic payment would not go
14 through until the next month (necessitating another manual payment), when in fact NSI was
15 simply taking 6 days to process it.

16 d. Another borrower complained that although he had set up an
17 automatic withdrawal from his account, NSI's website showed him as delinquent, and its
18 customer service team was unable to provide him with an explanation for more than a month.

19 e. Another borrower complained that NSI delayed processing his
20 check and told him that it had not arrived, when his bank records indicated that NSI had
21 deposited it six (6) days earlier.

22 f. Another borrower noted three occasions on which NSI applied his
23 payment to the wrong loan(s), then charged late fees and sent him collection letters on the
24 loan(s) to which his payments did not apply.

25 g. Another borrower wrote that "My current complaint is that they
26 make a mistake on my account every single month which requires me to spend valuable time

1 on the phone with them every month. They take double payments or take them from the wrong
2 account or stop taking payments altogether without notifying me, all causing fees to incur that
3 they refuse to pay. For the past 2 months they withdrew payment from the wrong account. I
4 initially called them to see why they had done that, they were very apologetic and guaranteed
5 me that it would not happen again yet the very next month it did! . . . If a suit is not brought
6 against them it is a clear message that large groups of people have power over individuals in
7 the worst way and are not culpable for their actions or accountable to the same laws as the rest
8 of us. Please help us stop Sallie Mae's financial terrorism!"

9 5.124 Upon information and belief, NSI does not have a system in place to track
10 routine consumer complaints about payment application and allocation, and if a borrower calls
11 in, NSI's representatives enter call notes in a "freeform, narrative" style, and the company does
12 not use any tags of codes that would allow it to identify recurring problems. This ad hoc
13 system is unfair to borrowers because borrowers have the reasonable expectation that their
14 student loan servicer will have an adequate and fair system in place to identify and fix
15 recurring problems, so that borrowers do not have to bear the burden of repeatedly correcting
16 errors.

17 5.125 In sum, NSI's failure to implement systems to identify and fix its many
18 application and allocation problems has, over many years, negatively affected borrowers who
19 trust their loan servicer to properly service their accounts.

20 **3. Unfair Or Deceptive Practices Relating To Telephone Communications**
21 **With Borrowers, Cosigners, And Non-Borrowers**

22 5.126 Washington borrowers, cosigners, and even non-borrowers have complained
23 about harassing telephone calls from NSI. For example, non-borrowers complain that NSI
24 calls them numerous times each day seeking an individual that does not live with the call
25 recipient, and in some instances, an individual that the call recipient has never heard of.
26 Sometimes NSI agrees not to call them anymore, but the calls nevertheless resume.

1 5.127 Borrowers and cosigners also complain that NSI unfairly continues to call
2 multiple times each day during a delinquency, even after the borrower has made arrangements
3 to make a payment and resolve the delinquency. For example, if the borrower is delinquent,
4 but has made arrangements for a payment to NSI by automatic withdrawal on his or her next
5 payday, NSI continues to place collection calls to the borrower and cosigner multiple times
6 each day until the borrower's payday arrives and the automatic payment is made. In at least
7 one instance, a borrower complained that although he had submitted payment to the wrong NSI
8 mailbox and NSI had cashed the check but not applied it to her account, NSI "started calling
9 my co-signer for payment saying they haven't heard from me although I have called [NSI]
10 every day."

11 5.128 Washington borrowers also report that NSI customer service representatives and
12 collectors are rude and abusive over the telephone. One borrower complained that "The calls,
13 threats and unwilling[ness] to work with me has me lost, depressed, scared&feeling like they
14 are going to have me living on the streets soon the way they talked." Another stated that a
15 Sallie Mae representative requested the bulk of his income to stay out of default, and told him
16 to stop eating as a way to fit payments into his budget.

17 5.129 NSI also provided inconsistent information to borrowers. For example, one
18 AmeriCorps volunteer was told that during her service, her payment would be \$212 per month,
19 but when she called back to provide her bank account information for automatic withdrawals,
20 NSI changed its mind and set her payment at \$288 per month. Another borrower complained
21 that several months after he set up a program to withdraw an agreed amount from his bank
22 account each month, Sallie Mae took out nearly twice the agreed amount, then stated that his
23 program had not been approved and he owed additional money to bring his account current.

24 **4. Unfair Or Deceptive Practices Relating To Steering Federal Student Loan**
25 **Borrowers To Forbearances, Rather Than Income-Driven Repayment**
26 **Plans**

1 5.130 Upon first entering repayment, a federal student loan borrower is assigned to or
2 selects a specific repayment plan. The borrower can change his or her repayment plan at any
3 time, including if the borrower is experiencing financial hardship or distress.

4 5.131 The U.S. Department of Education offers numerous repayment plans designed
5 to help borrowers manage their student loan debt and make monthly repayment of these loans
6 more affordable. These repayment plans include several income-driven repayment plans
7 (collectively, "IDR plans"), such as Income-Based Repayment ("IBR") and Pay As You Earn
8 Repayment ("PAYE"). Most federal student loans are eligible for at least one IDR plan. The
9 borrower's monthly payment under an IDR plan is based on the borrower's income and family
10 size, and is intended to be more affordable for borrowers who would struggle to make the
11 payments under a standard repayment plan.

12 5.132 Most IDR plans offer several additional benefits for federal student loan
13 borrowers, especially borrowers experiencing long-term financial hardship. For example:

14 a. For borrowers with subsidized loans whose monthly payment amount
15 does not fully cover accrued interest, the federal government will pay any unpaid interest that
16 accrues on those loans during the first three consecutive years of enrollment in the IDR plan.
17 This interest subsidy can be a significant benefit to such borrowers because they generally have
18 no obligation to ever pay the unpaid interest that accrues during those three years. Because that
19 interest, not paid by the borrower, is paid in full by the federal government, it is not added to
20 the principal balance of the loan, or "capitalized."

21 b. Borrowers who are enrolled in an IDR plan can also receive forgiveness
22 of the remaining balance of their federal loan, either after making 20-25 years of qualifying
23 payments for most IDR plans or 10 years of qualifying payments while employed in certain
24 public service professions.

25 5.133 Federal student loans are generally also eligible for forbearance, which is a
26 short-term, temporary postponement of payment. With forbearance, a borrower experiencing

1 financial hardship or illness may be able to stop making payments or reduce his or her monthly
2 payment for a defined period of time.

3 5.134 NSI's website states that forbearance is appropriate for borrowers experiencing
4 "a problem making on-time payments due to a temporary financial difficulty." The website
5 also states: "Forbearance is intended to help you out in times of temporary need."¹

6 5.135 Borrowers who enroll in forbearance face significant costs, including the
7 accumulation of unpaid interest and the addition (known as "capitalization") of that unpaid
8 interest to the principal balance of the loan. In some cases, a loan in forbearance may be
9 reamortized, where the monthly payments are recalculated, which can lead to an increase in the
10 borrower's monthly payment amount. These costs generally increase the longer a borrower is
11 in forbearance, and long-term enrollment in forbearance can therefore increase the borrower's
12 monthly payment after the forbearance period ends, as well as the total amount repaid over the
13 life of the loan(s). Forbearance is therefore unsuitable for borrowers experiencing a long-term
14 or chronic inability to make their monthly payments under a standard, non-IDR plan.

15 5.136 Because income-driven repayment plans enable borrowers to avoid or reduce
16 the costs associated with forbearance, for borrowers whose financial hardship is not temporary
17 and short-term, enrolling in an IDR plan is usually a better option than forbearance.

18 5.137 The U.S. Department of Education publicly encourages borrowers to consult
19 their federal student loan servicer, such as NSI, to determine the best repayment option or
20 alternative for them, with statements like "Work with your loan servicer to choose a federal
21 student loan repayment plan that's best for you" and "Before you apply for an income-driven
22 repayment plan, contact your loan servicer if you have any questions. Your loan servicer will
23 help you decide whether one of these plans is right for you" and "Always contact your loan
24 servicer immediately if you are having trouble making your student loan payment."

25 ¹ Navient website, available at [https://www.navient.com/loan-customers/postponing-](https://www.navient.com/loan-customers/postponing-payments/deferment-and-forbearance/)
26 [payments/deferment-and-forbearance/](https://www.navient.com/loan-customers/postponing-payments/deferment-and-forbearance/) (last accessed January 17, 2017).

1 5.138 NSI has also repeatedly encouraged borrowers experiencing financial hardship
2 to contact it for help in evaluating their repayment options. For example, NSI's website has
3 included the following statement inviting borrowers to contact it for guidance in finding long-
4 term repayment solutions:

5 a. "[I]f you're having trouble, there are options for assistance, including
6 income-driven repayment plans, deferment, forbearance, and solutions to help you avoid
7 delinquency and prevent default We can work with you to help you get back on track, and
8 are sometimes able to offer new or temporarily reduced payment schedules. Contact us at 800-
9 722-1300 and let us help you make the right decision for your situation."²

10 b. "If you're experiencing problems making your loans payments, please
11 contact us. Our representatives can help you by identifying options and solutions, so you can
12 make the right decision for your situation."³

13 c. "Navient is here to help. We've found that, 9 times out of 10, when we
14 can talk to a struggling federal loan customer we can help him or her get on an affordable
15 payment plan and avoid default."⁴

16 5.139 For many years, NSI Corp.'s and NSI's website has included other, similar
17 statements. For example, its website previously stated that it 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

22 ² NSI website, available at [https://www.navient.com/loan-customers/postponing-payments/if-you-are-](https://www.navient.com/loan-customers/postponing-payments/if-you-are-having-trouble/)
23 [having-trouble/](https://www.navient.com/loan-customers/postponing-payments/if-you-are-having-trouble/) (last accessed January 17, 2017).

24 ³ NSI website, available at [https://www.navient.com/loan-customers/postponing-payments/avoiding-](https://www.navient.com/loan-customers/postponing-payments/avoiding-default/)
25 [default/](https://www.navient.com/loan-customers/postponing-payments/avoiding-default/) (last accessed January 17, 2017).

26 ⁴ NSI website, available at [https://www.navient.com/loan-customers/getting-started/successful-student-](https://www.navient.com/loan-customers/getting-started/successful-student-loan-borrowers/)
[loan-borrowers/](https://www.navient.com/loan-customers/getting-started/successful-student-loan-borrowers/) (last accessed January 17, 2017).

1 5.140 Navient's written training materials reflect this approach. [REDACTED]

2 [REDACTED]

3 [REDACTED]

4 [REDACTED]

5 [REDACTED]

6 [REDACTED]

7 [REDACTED]

8 [REDACTED]

9 5.141 [REDACTED]

10 [REDACTED]

11 [REDACTED]

12 5.142 [REDACTED]

13 [REDACTED]

14 [REDACTED]

15 [REDACTED]

16 [REDACTED]

17 5.143 [REDACTED]

18 [REDACTED]

19 [REDACTED]

20 [REDACTED]

21 [REDACTED]

22 5.144 Thus, NSI acknowledges, at least implicitly, that the most effective way for its

23 customers to learn about available repayment options is to make live contact with its

24 representatives.

25 5.145 But despite publicly assuring borrowers that it will help them identify and enroll

26 in an appropriate, affordable repayment plan, NSI instead steered borrowers, including

1 Washington borrowers, experiencing long-term distress or hardship into forbearance, to their
2 financial detriment (but saving NSI in operational costs).

3 5.146 NSI's compensation policies for customer service representatives incentivized
4 them to push numerous borrowers to forbearance without adequately exploring IDR plans with
5 those borrowers, and in some cases, without even mentioning IDR plans at all.

6 5.147 Because of the number of repayment options available for federal loans, a
7 conversation about alternative repayment plans and the borrower's financial situation will
8 often be time-consuming.

9 5.148 NSI has compensated its customer service personnel, in part, based on average
10 call time. As a result of NSI's compensation policies, engaging in lengthy and detailed
11 conversations with borrowers about their particular financial situations and trying to determine
12 the IDR plan that is most appropriate for each borrower would have been financially
13 detrimental for those employees.

14 5.149 Sallie Mae uses a comprehensive set of employee incentive compensation plans
15 for its customer service and pre-default collections employees, including those making calls to
16 Washington consumers. An incentive compensation plan ("ICP") is a reward strategy that uses
17 a documented plan to compensate employees based on criteria other than pay for time worked.
18 An ICP is designed to supplement base pay and drive behaviors and performance that align the
19 employee with the overall strategy of the company.

20 5.150 [REDACTED]
21 [REDACTED]
22 [REDACTED]
23 [REDACTED]
24 [REDACTED]
25 [REDACTED]
26

1 5.151 [REDACTED]
2 [REDACTED]
3 [REDACTED]
4 [REDACTED]
5 [REDACTED]
6 [REDACTED]
7 [REDACTED]
8 5.152 [REDACTED]
9 [REDACTED]
10 [REDACTED]
11 [REDACTED]
12 [REDACTED]
13 [REDACTED]
14 [REDACTED]
15 [REDACTED]
16 [REDACTED]
17 5.153 [REDACTED]
18 [REDACTED]
19 [REDACTED]
20 [REDACTED]
21 [REDACTED]
22 [REDACTED]
23 [REDACTED]
24 [REDACTED]
25 5.154 [REDACTED]
26 [REDACTED]

1 [REDACTED]
2 [REDACTED]
3 [REDACTED]
4 [REDACTED]
5 [REDACTED]
6 5.155 [REDACTED]
7 [REDACTED]
8 [REDACTED]
9 [REDACTED]
10 [REDACTED]
11 [REDACTED]
12 [REDACTED]
13 5.156 Because borrowers must submit a paper or online application and certain
14 income tax documentation to enroll in an IDR plan, the process of enrolling a borrower in such
15 plans sometimes required multiple, lengthy conversations with the borrower – particularly if
16 the borrower has questions or experiences difficulty with the process. This is costly for
17 Navient and its employees.
18 5.157 In contrast, enrollment in forbearance can often be completed over the phone, in
19 a matter of minutes, and generally without the submission of any paperwork.
20 5.158 As compared to the staff resources and time expenditure required to enroll and
21 renew borrowers in income-driven repayment plans, enrolling borrowers in forbearance is
22 substantially less expensive for NSI and financially beneficial for its employees. As a result of
23 the misaligned incentives imposed by NSI's compensation policies, NSI employees have
24 routinely failed to invest the time and effort necessary to help financially distressed borrowers
25 identify and enroll in affordable repayment plans most appropriate for their financial situation.
26

1 5.159 One former Navient loan servicing specialist in Newark, Delaware from 2011-
2 2012 explained, she never made a bonus because the maximum call time to receive a bonus
3 was approximately six minutes while her call times were often about ten minutes because she
4 tried to see if callers qualified for lower payments. She observed other customer service
5 representatives who would hang up on customers or have short call times would make bonuses.
6 She states that she often got pulled aside and talked to because of her higher call times.

7 5.160 Upon information and belief, [REDACTED]
8 [REDACTED]
9 [REDACTED]

10 [REDACTED] Thus, as the former Navient employee explained, and as
11 Navient's incentive compensation structure demonstrates, Navient employees are incented to
12 have short phone calls, during which they only have the time to counsel borrowers on options
13 for temporary suspension of payments, rather than long-term repayment options.

14 5.161 Upon information and belief, [REDACTED]
15 [REDACTED]
16 [REDACTED]
17 [REDACTED]
18 [REDACTED]
19 [REDACTED]
20 [REDACTED]

21 5.162 Because they were placed into forbearance before ultimately enrolling in an
22 income-driven repayment plan with a \$0 payment, these borrowers had delayed access to the
23 benefits of the income-driven repayment plan, and suffered unnecessary addition of unpaid
24 interest to the principal balance of the loan, which they potentially could have avoided had they
25 been enrolled in the income-driven repayment plan from the start.
26

1 5.163 Upon information and belief, [REDACTED]

2 [REDACTED]
3 [REDACTED]
4 [REDACTED]
5 [REDACTED]
6 [REDACTED]
7 [REDACTED]
8 [REDACTED]
9 5.164 NSI also enrolled numerous borrowers in multiple consecutive forbearances,
10 even though they had clearly presented a long-term inability to repay their loans. For example,
11 between January 1, 2010 and March 31, 2015, NSI enrolled over [REDACTED]
12 nationwide, including borrowers in Washington, in two or more consecutive forbearances
13 totaling twelve months or longer. More than [REDACTED] of these borrowers were enrolled in three
14 or more consecutive forbearances, and more than [REDACTED] of them were enrolled in four or
15 more consecutive forbearances. For borrowers enrolled in three or more consecutive
16 forbearances, each forbearance period lasted, on average, six months. Therefore, as a result of
17 NSI's steering practices, almost one million consumers were continuously enrolled in
18 forbearance for a period of two or three years, or more. These borrowers' long-term inability to
19 repay was increasingly clear as each forbearance period expired, but NSI representatives
20 continued to enroll them in forbearance. By enrolling these borrowers in multiple consecutive
21 forbearances, NSI imposed significant financial costs on them.

22 5.165 Had Navient provided adequate information to those borrowers about enrolling
23 in affordable payment plans, as it promised them on its website, those borrowers would not
24 have incurred the costs associated with unnecessary voluntary forbearances.

25 5.166 Upon information and belief, the conduct alleged in this section was targeted at
26 borrowers across the nation, including borrowers in Washington.

1 **5. Unfair And Deceptive Practices Relating To The Recertification Of Federal**
2 **Student Loan Borrowers' Family Size And Income For Purposes Of**
3 **Income-Driven Repayment Plans**

4 5.167 A federal student loan borrower who is enrolled in an IDR plan must certify
5 his/her income and family size to qualify for an affordable payment amount, which applies for
6 a period of twelve months. The affordable payment amount will then expire unless the
7 borrower "recertifies" his or her income and family size by submitting updated information
8 and documentation.

9 5.168 If the borrower does not timely recertify income and family size, negative
10 consequences are likely to occur, including:

11 a. The borrower's monthly payment will immediately increase from a low
12 affordable amount to the amount dictated by a "standard" repayment plan;

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

15 c. For subsidized loans in the first three years of enrollment in an IDR
16 plan, the loss of an interest subsidy from the federal government for each month until the
17 borrower renews her enrollment; and

18 d. Delayed progress towards loan forgiveness.

19 5.169 When a borrower first enrolls in an IDR plan, NSI has sent him or her an "initial
20 disclosure notice" which identified the beginning and end dates of enrollment, and advised
21 consumers: "You'll be notified in advance when your loan(s) is up for renewal for the
22 [income-driven repayment] plan. At that time, you'll be provided with a date to submit a new
23 application." The initial disclosure notice did not indicate any specific renewal deadline.

24 5.170 The "initial disclosure notice" has also outlined certain consequences that might
25 result if the borrower "chooses not to renew" or "requests to leave the plan," including the
26 recalculation of the borrower's monthly payment amount and capitalization of unpaid interest
into the principal balance of the loan. The initial disclosure notice indicates that these

1 | consequences will result only of the borrower “chooses not to renew” or “requests to leave the
2 | plan,” but does not identify the potential consequences of failing to timely submit a renewal
3 | application, or if the application is incorrect or incomplete.

4 | 5.171 However, between at least January 2010 and December 2012, NSI’s annual
5 | renewal notices for IDR plans sent through U.S. mail did not inform borrowers of the actual
6 | date by which they had to submit the renewal application and supporting documentation of
7 | income, to avoid expiration of the twelve-month period – as its initial notice had promised to
8 | do. Instead, NSI’s pre-December 2012 mailed notices stated vaguely that the borrower’s
9 | income-based repayment period would “expire in approximately 90 days” and that the
10 | “renewal process may take at least 30 days.”

11 | 5.172 Reasonable borrowers cannot, based on this notice, determine the deadline by
12 | which they must submit the required package in order to timely renew enrollment in the plan.
13 | The statement that the “renewal process may take at least 30 days” says nothing about how
14 | long the renewal process is actually likely to take, or even the maximum number of days the
15 | renewal process could take. And by saying that the plan would expire in “approximately 90
16 | days,” NSI provided no date by which the borrower could count backwards to calculate the
17 | deadline – even if NSI had told the borrower how many days to count (which it did not). The
18 | notice also failed to advise borrowers of the likely consequences if they failed to timely submit
19 | their renewal application.

20 | 5.173 For the more than 75% of NSI’s federal student loan borrowers who have
21 | consented to receiving electronic communications, NSI has sent electronic renewal notices
22 | instead of notices by mail.

23 | 5.174 Between at least mid-2010 and March 2015, these borrowers had to log in to
24 | NSI’s secure website with their user ID and password to view an electronic version of the
25 | renewal notice sent via U.S. mail to other borrowers. NSI, however, failed to adequately advise
26 | these borrowers of the availability of the electronic notice on its website.

1 5.175 The only step that NSI took to advise these borrowers of the availability of the
2 electronic notice on its website was to send them an email with a hyperlink to its website,
3 where the renewal notice could be viewed after the borrower logged in. But neither the subject
4 line of this email nor its contents provided any indication of the purpose or importance of the
5 notice. From at least January 1, 2010 through November 15, 2012, the subject line of the email
6 simply read: "Your Sallie Mae Account Information." Likewise, from at least November 16,
7 2012 through March 18, 2015, the subject line of the email was: "New Document Ready to
8 View." Until mid-2015, the body of the email stated only that "a new education loan
9 document is available. Please log in to your account to view it."

10 5.176 Other emails sent by NSI during this time period described the content or
11 purpose of the referenced document. For example, the subject line of one such email was
12 "Your Sallie Mae – Department of Education Statement is Available," and the body of the
13 email stated "Your monthly statement is now available. Please log in to your account at Sallie
14 Mae.com to view and pay your bill." Another email regarding loan terms had a subject line that
15 read "Change in Loan Terms," and the text of this email stated, "The payment term for your
16 loan(s) has changed. Please log in to your account to view the document with your updated
17 payment schedule."

18 5.177 NSI tracked the number of borrowers who click on hyperlinks in the emails that
19 NSI sends to them. NSI therefore knew or should have known that many borrowers did not
20 even see the electronic renewal notices on its website because it knew the number of borrowers
21 who do not click on the emailed hyperlink.

22 5.178 Between at least July 21, 2011 and March 2015, the percentage of NSI's federal
23 student loan borrowers who did not timely renew their enrollment in IDR plans – and suffered
24 the negative consequences described above – regularly exceeded [REDACTED]. NSI has been aware
25 that the majority of borrowers were failing to renew their enrollment in income-driven
26 repayment plans.

1 5.179 Beginning in or around March 2015, NSI made several improvements to its
2 notice email, so that the subject line reads "Your Payment Will Increase Soon!" and the text of
3 the email now states: "[I]n order to keep your lower payment amount, it's important that you
4 apply soon to renew your repayment plan." Thereafter, the renewal rate more than doubled.

5 5.180 Upon information and belief, the conduct alleged in this section was targeted at
6 borrowers across the nation, including borrowers in Washington.

7 **6. Deceptive Practices Relating To About The Amount Necessary To Bring**
8 **Delinquent Borrowers Current**

9 5.181 When borrowers are past due on their accounts, Defendants begin collection
10 calls to borrowers and cosigners.

11 5.182 Instead of simply collecting the amount the borrower is past due to bring the
12 account current, Defendants instruct employees first to demand the borrower's next month's
13 payment in addition to the past due amount.

14 5.183 Defendants attempt to collect this higher amount without telling the borrower
15 they are collecting more than the amount necessary to simply bring the borrower current.

16 5.184 [REDACTED]
17 [REDACTED]
18 [REDACTED]
19 [REDACTED]

20 5.185 [REDACTED]
21 [REDACTED]
22 [REDACTED]

23 [REDACTED]
24 [REDACTED]
25 [REDACTED]
26 [REDACTED]

1 [REDACTED]
2 [REDACTED]
3 5.186 NSI's training manual [REDACTED]
4 [REDACTED]
5 [REDACTED]
6 [REDACTED]
7 5.187 Employees are trained on [REDACTED]
8 [REDACTED]
9 [REDACTED]
10 [REDACTED]
11 5.188 Another training manual instructs employees to [REDACTED]
12 [REDACTED]
13 [REDACTED]
14 [REDACTED]
15 [REDACTED]
16 5.189 Another training document states, [REDACTED]
17 [REDACTED]
18 [REDACTED]
19 5.190 Defendants' incentive compensation structure reinforces their objective of
20 maximizing the amount they can collect immediately.
21 5.191 In recorded phone calls between Defendants and borrowers, Defendants follow
22 the training manuals and request the Present Amount Due from past due borrowers instead of
23 asking for the amount that would bring them current. Until borrowers catch on to the fact that
24 the amount Defendants are seeking is more than the amount they are delinquent, Defendants do
25
26

1 not attempt to explain that the Present Amount Due captures the next month's payment and
2 may not be due immediately on the day of the call.

3 5.192 In summary, Defendants deceptively represent to delinquent borrowers that the
4 "present amount due" is the amount required to bring the borrower's account current, when in
5 fact, the present amount due is the past due amount plus the borrower's next monthly payment.

6 5.193 Borrowers who pay the Present Amount Due are unaware it is possible for them
7 to pay a lesser amount in order to clear the delinquency on their account.

8 **E. DEFENDANTS' CONDUCT RELATED TO THE COLLECTION OF STUDENT**
9 **LOANS**

10 5.194 Although federal student loan borrowers have numerous repayment options
11 available, a significant number of federal loans, including those owed by Washington
12 borrowers, go into default. A federal loan generally defaults at 270 days of non-payment.
13 The loan is then sent to a private debt collector. Private collection agencies ("PCAs") contract
14 with Federal Student Aid ("FSA") to collect on behalf of the federal government. PCAs like
15 Pioneer collect on loans originated under the Direct Loan program and loans originated under
16 the FFEL program that the Department of Education owns (ED-held FFELP loans).

17 5.195 Loans originated under the FFEL program that are held by guaranty agencies
18 are referred to as Commercial FFEL. Guaranty agencies contract with entities like GRC and
19 Pioneer to collect defaulted debt.

20 5.196 Navient Corp. is an intermediary between some guarantors and contingency
21 collectors to manage the collection of defaulted Commercial FFELP loans. It contracts with
22 guarantors and then subcontracts with collection agencies to collect the defaulted loans for
23 which the guarantor has paid the guarantee. Through this arrangement, it controls the conduct
24 of Pioneer and GRC, by managing their account placements, determining their policies and
25 procedures, designing and proscribing communications, and providing them access to NSI's
26 information systems for the purposes of collecting defaulted loans.

1 5.197 The consequences for borrowers in default are drastic: negative credit reporting,
2 the assessment of collection fees, and extraordinary remedies such as the offset of social
3 security benefits, interception of income tax refunds, and the garnishment of wages through
4 administrative rather than judicial processes. Borrowers are also subject to traditional
5 collection techniques aimed at extracting payments from them. Collectors track down
6 borrowers by calling family and neighbors, sending letters, and calling borrowers at their
7 homes and places of employment.

8 5.198 Borrowers who have defaulted on their federal student loans have a right to
9 certain programs which allow them to return to a satisfactory repayment status if they
10 successfully fulfill the requirements. In particular, borrowers may “rehabilitate” or
11 “consolidate” their defaulted loans. In some instances, borrowers may have their loans
12 discharged in their entirety because of a disability or due to problems with the school they
13 attended.

14 5.199 The PCA system has been plagued by problems involving collectors’ conduct.

15 5.200 In March 2014, for instance, the Government Accountability Office noted
16 significant problems with PCAs including, “providing borrowers with inaccurate or misleading
17 information about rehabilitation program requirements and options.”

18 5.201 In 2015, Pioneer’s contract with the Department of Education, along with
19 several others, was terminated for making materially inaccurate statements while enrolling
20 borrowers in the federal loan rehabilitation program. Department of Education Undersecretary
21 Ted Mitchell explained the terminations by stating that federal borrowers “are entitled to
22 accurate information as they make critical choices to manage their debt...Every company that
23 works for the Department must keep consumers’ best interests at the heart of their business
24 practices by giving borrowers clear and accurate guidelines.”

25 **1. Unfair And Deceptive Practices Relating To The Credit Reporting Benefits**
26 **Of Rehabilitating A Defaulted Federal Student Loan**

1 5.202 Rehabilitation restores a defaulted Direct or FFEL loan to good standing once
2 the borrower makes nine voluntary reasonable and affordable payments that are received
3 within twenty days of each due date within a ten month period.

4 5.203 When a borrower is in a normal repayment status on her student loan, she has a
5 related trade line on her credit report. If that borrower ceases making payments, eventually she
6 will enter default status, at which point a new and separate default trade line will be added to
7 her credit report. Hence, a borrower in default has two trade lines related to the student loan:
8 (1) one reflecting the late payments and delinquencies leading up to default; and (2) another
9 reflecting the default itself.

10 5.204 Once a borrower completes the rehabilitation program and has her loan
11 refinanced, the owner of the loan removes the default trade line – trade line (2) in the preceding
12 paragraph – from the borrower’s credit report. The original trade line – trade line (1) in the
13 preceding example – reflecting the pre-default delinquency is *not* removed.

14 5.205 The U.S. Department of Education instructs debt collectors, including Pioneer,
15 not to state or imply to borrowers that the default information reported by the original lender
16 guaranty agency will be removed from the borrower’s credit report as a result of rehabilitation:
17 “Adverse information reported by the original lender will not be expunged or excluded from
18 credit reports before the 7-year period that runs from the lender’s report of that default, even if
19 the loan is rehabilitated.”

20 5.206 Despite this instruction, from at least January 2012 through December 2014, in
21 calls with borrowers, Pioneer collectors made deceptive statements about the change that
22 occurs on a borrower’s credit report after rehabilitation by stating or implying that all negative
23 information – including pre-default delinquencies – would be removed.

24 5.207 These deceptive representations were consistent with Pioneer’s scripts used
25 between at least 2012 and 2014, which read: [REDACTED]

1 [REDACTED]
2 [REDACTED]
3 [REDACTED]
4 [REDACTED]
5 [REDACTED]
6 5.208 In fact, after rehabilitation, these borrowers' trade lines were not erased of all
7 information related to the defaulted student loan. The original trade line, reflecting a serious
8 delinquency, remained on their credit reports.

9 5.209 Upon information and belief, the conduct alleged in this section was targeted at
10 borrowers across the nation, including borrowers in Washington.

11 **2. Unfair And Deceptive Practices Relating To The Debt Collection Cost**
12 **Forgiveness Benefits Of Rehabilitating Defaulted Federal Student Loans**

13 5.210 After a federal student loan defaults, collection fees are projected based on a
14 formula of about 25% of the outstanding principal and interest.

15 5.211 When a borrower makes a rehabilitation payment, the collector utilizes a portion
16 of the payment to satisfy collection fees and applies the rest to the loan's outstanding interest
17 and principal. For example, about 20% of a \$50 payment, or \$10, is used to satisfy collection
18 fees and the remaining \$40 is applied towards the defaulted principal and interest.

19 5.212 After the borrower submits her ninth rehabilitation payment, any remaining
20 collection fees are waived by the Department of Education.

21 5.213 [REDACTED]
22 [REDACTED] creating the
23 impression borrowers would not be paying any fees when, in reality, borrowers were paying a
24 portion of fees out of each rehabilitation payment.

25 5.214 Upon information and belief, the conduct alleged in this section was targeted at
26 borrowers across the nation, including borrowers in Washington.

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9.1 The State incorporates Paragraphs 1.1 through 5.215 herein as if set forth in their entirety.

9.3 The origination of private student loans to students in Washington constitutes “trade” or “commerce” defined by RCW 19.86.010(2).

a. Deceptively and unfairly offering subprime, high-cost loans to borrowers in spite of the high likelihood those loans would default, for the purpose of gaining access to profitable federally guaranteed FFELP loan and prime private loan volume, including while shifting a portion of the risk to schools through contractual arrangements; and

9.5 Defendants' conduct in the origination of student loans affects the public interest because the loans at issue were marketed and issued to numerous consumers in Washington, injured numerous Washington consumers, were part of Defendants' ordinary business operations, and were repeated.

(Violations Of RCW 19.86.020 In The Servicing Of Student Loans)

1 7.1 The State incorporates Paragraphs 1.1 through 6.4 herein as if set forth in their
2 entirety.

3 7.2 The servicing of both private and federal student loans of borrowers in
4 Washington constitutes "commerce" as that term is defined by RCW 19.86.010(2).

5 7.3 NSI engaged by unfair or deceptive acts or practices in the servicing of student
6 loans by:

7 a. Deceptively and unfairly promoting cosigner release broadly, when, in fact, very
8 few cosigners actually qualify for the release rendering it an illusory benefit, and some borrowers
9 and cosigners had no contractual right to apply for cosigner release at all;

10 b. Deceptively and unfairly representing the meaning of consecutive, on time, full
11 principal and interest payments as the qualifications for cosigner release, specifically as it relates
12 to: a) paid ahead status; b) paying early; and c) grace period payments;

13 c. Deceptively and unfairly failing to disclose to cosigner release applicants that their
14 monthly expenses would be "double-counted" unless the applicants took steps not identified on
15 the application or its instructions;

16 d. Deceptively and unfairly failing to disclose the specific reasons borrowers are
17 denied for cosigner release such that a borrower cannot cure those defects to successfully reapply
18 for release;

19 e. Deceptively representing that the NSI counsels borrowers about their repayment
20 options, when in fact, little to no counseling actually occurs;

21 f. Presenting the federal loan repayment options that are available to borrowers in a
22 deceptive manner;

23 g. Deceptively representing that Navient will provide a date certain by which a
24 borrower must submit materials to timely recertify an income driven repayment plan, when in
25 fact, no such date is provided;

1 h. Deceptively and unfairly failing to disclose a date certain by which a borrower
2 must submit materials to timely recertify his or her income driven repayment plan;

3 i. Deceptively and unfairly failing to appropriately inform borrowers who receive
4 electronic communications that they need to recertify eligibility for an income driven repayment
5 plan;

6 j. Deceptively offering forbearances to federal student loan borrowers who express a
7 long-term inability to repay, when in fact a forbearance is intended for a temporary hardship;

8 k. Deceptively representing that the NSI will allocate borrowers' payments according
9 to borrowers' instructions, when in many cases NSI did not do so;

10 l. Unfairly misallocating borrowers' payments;

11 m. Unfairly misapplying borrowers' payments;

12 n. Unfairly making repeated, harassing calls to borrowers, cosigners, and parties with
13 whom NSI has no relationship; and

14 o. Deceptively representing to delinquent borrowers that the "present amount due" is
15 the amount required to bring the borrower's account current, when in fact, the "present amount
16 due" as it used the term is actually the past due amount plus the next monthly payment.

17 7.4 NSI's conduct in the servicing of student loans affects the public interest because
18 the loans at issue were owed by and paid upon by numerous consumers in Washington, injured
19 numerous Washington consumers, the acts and practices described above were part of NSI's
20 ordinary business operations, and were repeated.

21 **VIII. THIRD CAUSE OF ACTION**

22 **(Violations Of RCW 19.86.020 In The Collection Of Student Loans By Pioneer And GRC)**

23 8.1 The State incorporates Paragraphs 1.1 through 7.4 herein as if set forth in their
24 entirety.

25 8.2 Pioneer and GRC engaged by unfair or deceptive acts or practices in the collection
26 of student loans by:

1 a. Deceptively representing to borrowers expressly or by implication that
2 rehabilitation will result in the borrower's credit report appearing as if the defaulted loan never
3 existed, when in fact, some derogatory payment history may remain on the borrower's credit
4 report; and

5 b. As to Pioneer, representing to borrowers expressly or by implication that Pioneer
6 would waive all collection fees if a borrower successfully rehabilitates their loan, when in fact, the
7 borrower pays fees out of each rehabilitation payment and not all fees are actually waived.

8 8.3 Pioneer's and GRC's conduct in the collection of student loans affects the public
9 interest because the loans at issue were owed and paid upon by numerous consumers in
10 Washington, the companies' acts or practices injured numerous Washington consumers, were part
11 of their ordinary business operations, and were repeated.

12 IX. PRAYER FOR RELIEF

13 Wherefore, the State prays for the following relief:

14 9.1 A declaration that Defendants' acts described above are unfair or deceptive acts or
15 practices in trade or commerce, affecting the public interest, and in violation of the Consumer
16 Protection Act, RCW 19.86;

17 9.2 An injunction pursuant to RCW 19.86.080(1) enjoining Defendants from engaging
18 in any acts that violate the Washington Consumer Protection Act, including, but not limited to, the
19 unfair and deceptive acts and practices alleged herein;

20 9.3 An order necessary to restore to any person an interest in any moneys or property,
21 real or personal, which may have been acquired by means of an act prohibited by the Consumer
22 Protection Act, pursuant to RCW 19.86.080(2);

23 9.4 An award of a civil penalty in the amount of \$2,000 for each and every violation
24 of Washington's Consumer Protection Act, pursuant to RCW 19.86.140;

25 9.5 An award of the State's reasonable costs and attorney's fees incurred in this action,
26 pursuant to RCW 19.86.080(1); and

1 9.6 Any other award the Court determines is just and equitable.

2 DATED this 18th day of January, 2017.

3 ROBERT W. FERGUSON
4 Attorney General

5
6 /s/ Benjamin J. Roesch
7 BENJAMIN J. ROESCH, WSBA #39960
8 Assistant Attorney General
9 Attorney for Plaintiff, State of Washington
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