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14 * *Pro Hac Vice* Admission Pending

15 ***Counsel for Plaintiff and the Proposed Class***

16
17 **IN THE UNITED STATES DISTRICT COURT**
18 **FOR THE CENTRAL DISTRICT OF CALIFORNIA**
19 **WESTERN DIVISION**

20 AKAYLA MILLER, individually and on
behalf of all others similarly situated,

21
22 Plaintiff,

23 v.

24
25 BOARD OF TRUSTEES OF THE
CALIFORNIA STATE UNIVERSITY,

26
27 Defendant.
28

Civil Action No. 20-cv-3833

**ORIGINAL CLASS ACTION
COMPLAINT**

JURY TRIAL DEMANDED

1 Plaintiff Akayla Miller (“Plaintiff”), individually and on behalf of all others
2 similarly situated (the “Class,” as more fully defined below), brings this class action
3 complaint against Defendant Board of Trustees of the California State University
4 (“Defendant” or “CSU”). Plaintiff makes the following allegations upon personal
5 knowledge as to her own acts, and upon information and belief, and her attorneys’
6 investigation, as to all other matters, alleging as follows:

7 **I. NATURE OF THE ACTION**

8 1. This is a class action brought on behalf of all people who paid fees for the
9 Spring 2020 academic semester or quarter at any of the 23 campuses within the CSU
10 system and who, because of CSU’s response and policies relating to the Novel
11 Coronavirus Disease 2019 (“COVID-19”) pandemic, lost the benefits of the services for
12 which their fees were paid, without having a pro-rated portion of those fees and costs
13 refunded to them, in full and without condition. For purposes of this Complaint,
14 “semester” also encompasses “quarter” and means any academic period for which Plaintiff
15 and the other Class members paid fees, but experienced a loss of services because of
16 COVID-19.

17 2. On or about March 17, 2020, CSU announced that because of the global
18 COVID-19 pandemic and mass gathering guidelines implemented by the California
19 Department of Health, classes at all CSU campuses would immediately transition from in-
20 person operations to a virtual mode for the remainder of the Spring 2020 semester. In
21 mid-March, students were encouraged to move off-campus unless they had no other
22 option. All athletic events and other co-curricular activities were also suspended.
23 Students were encouraged to return to their homes to complete their coursework online.

24 3. Because all classes were moved online, all activities suspended, and facilities
25 closed, there was no reason for students to remain on campus if they had other housing
26 available to them and no reason for students who did not live on campus to come to campus
27 as they had always done to attend class. This is particularly so in the face of the dangers,
28 risks, and fear associated with the pandemic. On information and belief, many students

1 chose to leave campus to be closer to their families, or to avoid exposure to COVID-19,
2 and have stayed off campus to comply with directives from CSU, and local, state, and
3 federal governments.

4 4. Despite its constructive eviction of students from campus for the remainder
5 of the semester and ending all campus activities for at least that same time period, CSU
6 has not offered refunds to students for the unused portion of their campus fees paid to
7 cover the cost of certain on-campus services which are no longer available to students.
8 CSU is, in essence, profiting from this pandemic.

9 5. CSU's decision to transition to online classes and to instruct students to leave
10 campus were responsible decisions to make, but it is unfair and unlawful for CSU to retain
11 fees and costs and to pass the losses on to the students and/or their families. Other higher
12 education institutions across the United States that also have switched to e-learning and
13 have requested that students leave campus have recognized the upheaval and financial
14 harm to students and/or their families from these decisions and have provided appropriate
15 refunds. That is the right thing to do. CSU, unfortunately, has taken the opposite approach
16 by failing to provide any refunds of fees, despite requests from students and/or their
17 families.

18 6. Accordingly, CSU has improperly retained monies paid by Plaintiff and the
19 other Class members for these fees, for services that are no longer available. Even if CSU
20 claims that it did not have a choice, it nevertheless has improperly retained funds for
21 services it is not providing. No matter the excuse, CSU's actions are unlawful and unfair,
22 and equity demands disgorgement of the fees and monies paid to make Plaintiff and the
23 other Class members whole.

24 7. Plaintiff brings this class action for injunctive, declaratory, and equitable
25 relief resulting from CSU's illegal, unfair, or deceptive conduct, namely retaining the costs
26 of fees paid by Plaintiff and the other Class members, while forcing or encouraging
27 Plaintiff and the other Class members (or the students on behalf of who Plaintiff and Class
28 members paid these expenses) to move off campus.

1 **III. JURISDICTION AND VENUE**

2 14. This Court has original jurisdiction under the Class Action Fairness Act, 28
3 U.S.C. § 1332(d)(2)(A), because the matter in controversy exceeds the sum or value of
4 \$5,000,000, exclusive of interests and costs, and is a class action in which at least one
5 Class member is a citizen of a state different from CSU. Namely, CSU is a California
6 citizen, and many Class members are from states other than California.

7 15. This Court has personal jurisdiction over CSU because it resides in this
8 District.

9 16. Venue is proper in this District pursuant to 28 U.S.C. § 1391(b)(1), because
10 CSU resides in this District and is a resident of California, the state in which the District
11 is located.

12 **IV. FACTUAL ALLEGATIONS**

13 **A. *Plaintiff and the Other Class Members Paid Fees for the Spring 2020***
14 ***Semester***

15 17. Class members are individuals who paid fees at CSU campuses for the Spring
16 2020 semester.

17 18. Campus Mandatory Fees at CSU campuses include:

- 18 • Health Facilities;
- 19 • Health Services;
- 20 • Instructionally Related Activities;
- 21 • Materials Services and Facilities;
- 22 • Student Success Fee;
- 23 • Student Association; and
- 24 • Student Center.¹

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28 ¹ The California State University, Campus Mandatory Fees (2019-20), available at
<https://www2.calstate.edu/attend/paying-for-college/csu-costs/tuition-and-fees/campus-mandatory-fees>
(last accessed April 26, 2020).

1 19. Depending on campus location, the annual fees paid by Plaintiff and the other
2 Class members for the 2019-2020 academic year ranged from \$847 to \$4,201.²

3 20. The fees listed and described in Paragraphs 18 and 19 (above) are provided
4 by way of example; the total amount of fees for which this action seeks Defendant’s
5 disgorgement thereof—which may include other fees that are not listed herein but that
6 were paid and not refunded—will be proven at trial. For purposes of this action, “fees”
7 do not include the cost of tuition or the cost of room and board.

8 **B. *In Response to COVID-19, CSU Gets It Half Right: Students Are Required***
9 ***or Encouraged to Leave Campus, But Their Fees Are Not Refunded***

10 21. Beginning in January 2020, COVID-19 began presenting American cities and
11 universities with an unprecedented, modern-day challenge: maintaining the fabric of our
12 economy and communities while protecting American lives.

13 22. In March 2020, several U.S. cities, states, and municipalities began calling
14 for social distancing to slow the spread of COVID-19. Eventually, some cities, states, and
15 municipalities ordered citizens and residents to “shelter-at-home,” effectively requiring
16 them to stay home, other than to receive essential services.

17 23. Students expressed concern that, if they stayed on campus or in student
18 residence halls, the living conditions would threaten their safety, and expose them to
19 COVID-19.

20 24. On March 4, 2020, Governor Gavin Newsom entered an executive order
21 declaring a state of emergency to exist in California relating to COVID-19.

22 25. On March 19, 2020, Governor Newsom entered an executive order requiring
23 all individuals living in California to stay home or at their place of residence except as
24 needed to maintain continuity of operations of critical infrastructure sectors (in which
25 case, social distancing must be practiced).³

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28 ² *Id.*

³ Executive Department, State of California, Executive Order N-33-20, available at
<https://covid19.ca.gov/img/Executive-Order-N-33-20.pdf> (last accessed April 26, 2020).

1 26. The Federal Government has also responded to the COVID-19 pandemic in
2 ways that benefit CSU and help CSU cover the costs associated with the disruption.
3 Specifically, \$14 billion of stimulus funds have been set aside to aid institutions of higher
4 education. On information and belief, the State of California will receive over \$3.8 billion
5 for higher education.⁴ CSU will receive over \$350 million.⁵

6 27. The stimulus monies are designed to help students and it would be inequitable
7 for CSU to retain the value of these stimulus funds while, at the same time, ceasing to
8 provide services to students and not returning the full, pro-rated amounts that were paid
9 for these services. Certain CARES fund monies must be distributed directly to students.
10 This does not absolve CSU, however, of being required to disgorge the wrongly-retained
11 monies that Plaintiff and the other Class members paid for fees. This makes sense because
12 the CARES funds are intended to be used as emergency cash grants, not as a vehicle for
13 universities to retain money that is not theirs to retain. Given the unprecedented disruption
14 and financial impact to students and their families, these cash grants are necessary for
15 students and their families. Indeed, in most cases, students were not eligible for the \$1,200
16 CARES Act checks that many Americans received. Funds distributed through universities
17 may be the only portion of the unprecedented \$2 trillion federal stimulus package that
18 students receive. The fact that students may receive certain taxpayer monies through a
19 federal stimulus plan does not entitle CSU to retain fees that belong to Plaintiff and the
20 other Class members and, indeed, these fees must be disgorged and returned to them.

21 28. In March 2020, CSU also issued various mandates to students, requiring them
22 to begin taking all classes remotely and, in most cases, not return to campus, including to
23 their on-campus housing, for the remainder of the Spring 2020 semester.

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26 ⁴ How Much Will States Receive Through the Education Stabilization Fund in the CARES Act? Center
27 on Budget and Policy Priorities (April 3, 2020), <https://www.cbpp.org/research/state-budget-and-tax/how-much-will-states-receive-through-the-education-stabilization-fund>.

28 ⁵ U.S. Dept. of Education, Allocations for section 18004(a)(1) of the CARES Act, available at
<https://www2.ed.gov/about/offices/list/ope/allocationsforsection18004a1ofcaresact.pdf> (last accessed
April 26, 2020).

1 29. In March 2020, CSU also cancelled on-campus and other co-curricular
2 activities, included athletic events.

3 30. CSU has also cancelled or postponed in-person graduation ceremonies at its
4 campuses.

5 31. The effect of CSU’s COVID-19-related protocols and messaging is that all
6 students have effectively been forced to leave campus, unless they truly had no other safe
7 place to go. For students who do remain on campus, services are now extremely limited.
8 For students who do not live on campus, there is no reason to come to campus, since all
9 activities have been cancelled and all classes have moved online.

10 32. Notwithstanding each of the above-listed facts, CSU has not granted its
11 students and/or their families refunds of their fees, even though they are no longer able to
12 use the services for which they paid.

13 33. While social distancing is recommended by healthcare professionals and
14 even the Centers for Disease Control and Prevention (“CDC”), the resulting impact to the
15 economy—and individual families’ wallets—cannot be understated.⁶ Rather than
16 acknowledge the difficult financial stresses that COVID-19 has placed on families, CSU
17 students and/or their families were expected to bear the brunt of the stress.

18 34. CSU has announced that it will return certain room and board costs. CSU,
19 however, has not offered or provided students and/or their families any refund of the
20 miscellaneous campus fees they paid that were unused and will not be able to be used.

21 35. As soon as CSU announced that classes were moving online and campuses
22 were effectively closing, the fees they paid for the semester should have been promptly
23 returned to Plaintiff and the other Class members and are now, effectively, held in trust by
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27 ⁶ Carlos Granda, Marc Brown, and Grace Manthey, CA unemployment claims reach historic level amid
28 coronavirus pandemic, ABC7 Eyewitness News (April 3, 2020), <https://abc7.com/unemployment-claims-coronavirus-california/6071366/> (nearly 879,000 Californians filed for unemployment during the week ending March 28, 2020, which is nearly five times more than the previous week’s number. The last two weeks total more than 1 million people statewide).

1 CSU for the benefit of students and/or their families, including Plaintiff and the other Class
2 members, and must be disgorged and returned to them.

3 36. CSU has retained the value of monies paid by Plaintiff and the other Class
4 members for fees, while failing to provide the services for which those fees were paid.
5 Even if CSU has a legal right to cancel the fee contracts and no longer provide the services
6 for which the fees paid, it does not have the right to retain the monies that students and/or
7 their families paid for those services. The inequity is further highlighted by the fact that
8 CSU will be receiving hundreds of millions of dollars in aid to help cover the costs
9 associated with the COVID-19 disruption.

10 37. Class members have demanded the return of the unused portions of the fees
11 that they paid, through a number of channels, including through online forums.⁷

12 38. In addition, students and/or their families have contacted CSU directly and/or
13 left comments on online forums requesting refunds, all to no avail.

14 39. Despite these demands CSU has stood by its policy of refusing fee refunds.

15 40. Through this lawsuit, Plaintiff seeks—individually and on behalf of the other
16 Class members—CSU’s disgorgement of the pro-rated, unused portion of fees,
17 proportionate to the amount of time that remained in the Spring 2020 semester when
18 classes moved online and campus services ceased being provided. These amounts must
19 be fully disgorged and returned to Plaintiff and the other Class members. It is inequitable,
20 unfair, and illegal for CSU to retain these funds.

21 **V. CLASS ACTION ALLEGATIONS**

22 41. Plaintiff brings this case individually and, pursuant to Fed. R. Civ. P. 23(a),
23 (b)(2), (b)(3), and/or (c)(4) for damages, equitable relief, and disgorgement on behalf of
24 the Class, defined as:

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28 ⁷ See, e.g., Change.org Petition, Refund of Rec and Student Activity Fees, <https://www.change.org/p/csu-refund-of-rec-and-student-activity-fees> (over 1,500 individuals have signed).

1 All people who paid fees for or on behalf of themselves or other
2 students enrolled in classes at any CSU campus for the Spring
3 2020 semester, including students and/or their families or
4 guardians who paid fees (the “Class”).

5 42. Excluded from the Class are CSU and any of its respective members,
6 affiliates, parents, subsidiaries, officers, directors, employees, successors, or assigns; the
7 judicial officers, and their immediate family members; and Court staff assigned to this
8 case. Plaintiff reserves the right to modify or amend the Class definitions, as appropriate,
9 during the course of this litigation.

10 43. This action has been brought and may properly be maintained on behalf of
11 the Class proposed herein under the criteria of Rule 23 of the Federal Rules of Civil
12 Procedure.

13 44. **Numerosity—Federal Rule of Civil Procedure 23(a)(1).** The Class
14 members are so numerous and geographically dispersed that individual joinder of all Class
15 members is impracticable. The precise number of Class members is unknown to Plaintiff,
16 but may be ascertained from CSU’s records and, based upon publicly available
17 information, is presumed to be not less than 480,000 people. Class members may be
18 notified of the pendency of this action by recognized, Court-approved notice
19 dissemination methods, which may include U.S. Mail, electronic mail, Internet postings,
20 and/or published notice.

21 45. **Commonality—Federal Rule of Civil Procedure 23(a)(2);**
22 **Predominance—Federal Rule of Civil Procedure 23(b)(3).** This action involves
23 questions of law and fact common to the Class, which predominate over any individual
24 questions, including, without limitation:

- 25 a. Whether CSU engaged in the conduct alleged herein;
26 b. Whether CSU breached its contracts with Plaintiff and the other Class
27 members by retaining fees without providing the services which the
28 fees were intended to cover;

- 1 c. Whether CSU was unjustly enriched by retaining fees of Plaintiff and
2 the other Class members without providing the services that the fees
3 were intended to cover;
- 4 d. Whether CSU committed conversion by retaining fees of Plaintiff and
5 the other Class members without providing the services that the fees
6 were intended to cover;
- 7 e. Whether certification of the Class is appropriate under Fed. R. Civ. P.
8 23;
- 9 f. Whether Plaintiff and the other Class members are entitled to
10 prospective declaratory, equitable, or injunctive relief, including
11 disgorgement, and/or other relief; and
- 12 g. The amount and nature of relief to be awarded to Plaintiff and the other
13 Class members.

14 46. **Typicality—Federal Rule of Civil Procedure 23(a)(3).** Plaintiff’s claims
15 are typical of the other Class members’ claims because Plaintiff and the other Class
16 members each paid for fees associated with the Spring 2020 semester at CSU but were not
17 provided the services that those fees were meant to cover, nor were they reimbursed
18 therefor. Plaintiff and the other Class members each suffered harm—namely, CSU
19 retaining their fees and monies paid—as a direct and proximate result of the same
20 wrongful conduct in which CSU engaged. Plaintiff’s claims arise from the same practices
21 and course of conduct that give rise to the other Class members’ claims.

22 47. **Adequacy of Representation—Federal Rule of Civil Procedure 23(a)(4).**
23 Plaintiff is an adequate Class representative because her interests do not conflict with the
24 interests of the other Class members who she seeks to represent, Plaintiff has retained
25 counsel competent and experienced in complex class action litigation, and Plaintiff intends
26 to prosecute this action vigorously. Class members’ interests will be fairly and adequately
27 protected by Plaintiff and her counsel.

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