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IN THE CIRCUIT COURT FOR THE COUNTY OF ST. LOUIS, MISSOURI
TWENTY-FIRST JUDICIAL CIRCUIT

CAROLINE KEEVEN, on behalf of herself and all others similarly situated,
Plaintiff,
v.
Webster University,
Defendant.

Cause No:21SL-CC05384

FILED

OCT 29 2024

JOAN M. GILMER
CIRCUIT CLERK, ST. LOUIS COUNTY

PROPOSED PRELIMINARY APPROVAL ORDER

This matter having come before the Court on Plaintiff Caroline Keeven's Unopposed Motion for Preliminary Approval of Proposed Class Action Settlement between Plaintiff and Defendant Webster University ("Webster"), set forth in the Settlement Agreement between Plaintiff and Webster (the "Settlement Agreement"), and the Court having duly considered the papers and arguments of counsel, the Court hereby finds and orders as follows:

1. Unless defined herein, all capitalized terms in this Order shall have the same meanings as set forth in the Settlement Agreement.

Certification of the Settlement Class and Preliminary Approval of the Settlement

2. The Settlement Agreement includes the following Settlement Class:

All persons in the Fee Class and Meal Plan Class who do not timely and properly opt out of this Agreement pursuant to the procedures set forth herein.

The Fee Class means all Missouri citizens enrolled as full-time undergraduate or graduate students at Webster University within the State of Missouri for the 2020 Spring Semester (as defined herein) who Webster charged, in whole or in part, a Student Activity Fee, a Housing Activity Fee, and/or a Parking Fee for the Spring 2020 Semester.

The Meal Plan Class means all Missouri citizens enrolled at Webster University within the State of Missouri for the Spring 2020 Semester (as defined herein) who, as of March 27, 2020, had a balance on a meal plan that exceeded \$1,029.

Excluded from the Settlement Class are the Court and staff to whom this case is assigned and any immediate family members of the Court or its staff.¹

3. This Court finds that the Court will likely be able to certify the Settlement Class for purposes of judgment on the Settlement Agreement pursuant to Missouri Supreme Court Rule 52.08 because the requirements for certification under Rule 52.08 are satisfied. Namely:

a. Rule 52.08(a)(1) is satisfied, as the Class is so numerous that joinder of all members is impracticable.

b. Rule 52.08(a)(2) is satisfied, as there are numerous questions of law and fact arising from the nucleus of operative fact common to those Class members, including, among others: (i) Whether Webster's alleged failure to provide Plaintiff and Class Members in-person services for which Plaintiff and Class Members paid student fees for the 2020 Spring Semester, without any reimbursement, constitutes a breach of contract; (ii) Whether Defendant has been unjustly enriched by its retention of student fees charged to Plaintiff and Class Members for in-person services for the 2020 Spring Semester, which Plaintiff and Class Members allege they paid for but did not receive; (iii) Whether Webster's alleged failure to provide Plaintiff and Class Members in-person services for which Plaintiff and Class Members paid student fees for the 2020 Spring Semester, without any reimbursement, is unfair under the Missouri Merchandising Practices Act, Mo. Rev. Stat. § 407.020; (iv) Whether Webster's alleged failure to provide Plaintiff and Class Members in-person services for which Plaintiff and Class Members paid student fees for the 2020 Spring Semester, without any reimbursement,

¹ The Settlement Class is sometimes referred to herein as the Class.

breaches the implied covenant of good faith and fair dealing; (v) Whether Webster's alleged failure to provide Plaintiff and Class Members meal plan reimbursements covering their remaining balance for the 2020 Spring Semester constitutes unjust enrichment and/or a breach of the MMPA; and (vi) Whether Webster had a policy of denying reimbursements, in whole or in part, to Plaintiff and the Class Members based on the campus restrictions and move to online-only classes during the 2020 Spring Semester.

c. Rule 52.08(a)(3) is satisfied because the claims of the proposed Class Representative typify those of the absent Class members, as each Class Member was subject to the same alleged misconduct in the same manner as to Webster's retention of their money paid for student fees and/or money remaining on their meal plan.

d. Rule 52.08(a)(4) is satisfied because the proposed Class Representative will fairly and adequately protect the interests of the Class as a whole, and has done so thus far. The Class Representative's interests are aligned with, and not antagonistic to, those of the Class members in seeking to recover based on Webster's retention of their money paid for student fees and/or money remaining on their meal plan. Further, the Class Representative has proceeded with counsel who have vigorously pursued this case and have fairly and adequately protected the interests of the Class.

e. Rule 52.08(b)(3) is satisfied because the common questions of law or fact predominate over questions affecting individual members, as the common issues will be resolved through generalized and common proof—such as Webster's uniform decisions regarding the reimbursement of student fees and meal plan balances—which are more substantial than any issues that may be subject to individualized proof. Moreover, a class action is a superior method for fairly and efficiently adjudicating the controversy and avoiding inconsistent outcomes.

4. Accordingly, subject to the Final Approval Hearing referred to in this Order, the Court certifies the Settlement Class and appoints Caroline Keeven as Class Representative of the Settlement Class.

5. The Court appoints Kevin P. Green, Daniel S. Levy, and Richard S. Cornfeld, of Goldenberg Heller & Antognoli, P.C., as Class Counsel. The Court finds that these attorneys are competent and capable of exercising the responsibilities of Class Counsel and have and will fairly and adequately protect the interests of the Settlement Class.

6. The Court has conducted a preliminary evaluation of the settlement set forth in the Settlement Agreement for fairness, adequacy, and reasonableness. Based on this preliminary evaluation, the Court finds that the settlement is fair, reasonable and adequate, is likely to be approved under Missouri Supreme Court Rule 52.08, and is in the best interests of the Settlement Class. The Court further finds that the Settlement Agreement substantially fulfills the purposes and objectives of the class action against Webster University, and provides substantial relief to the Settlement Class without the risks, burdens, costs, or delays associated with continued litigation, trial, and/or appeal. The Court also finds that the Settlement Agreement is the result of arm's-length negotiations between experienced class action attorneys familiar with the legal and factual issues of this case, who have diligently investigated and prosecuted this matter.

Therefore, the Court grants preliminary approval of the settlement.

Notice and Administration

7. Pursuant to Missouri Supreme Court Rule 52.08(c)(2), the Court directs that notice of the Settlement Agreement shall be provided to the members of the Settlement Class as set forth herein.

8. The Court hereby approves the appointment of Atticus Administration, LLC as the Settlement Administrator responsible for administering the Class Notice and settlement payments in accordance with the terms of the Settlement Agreement. The Court also authorizes the Settlement Administrator to carry out such other responsibilities as are provided for in the Settlement Agreement or as may be agreed to by counsel for the Parties.

9. The Court approves the proposed content and method for giving notice to the Settlement Class. Counsel for the Parties are directed to modify such notices to reflect the dates set by this order prior to publication and dissemination. The proposed method of dissemination of Notice set forth in the Settlement Agreement is the best notice practicable under the circumstances, is a reasonable manner for notice, and constitutes valid, due, and sufficient notice to the Settlement Class in full compliance with the requirements of applicable law, including but not limited to the Due Process Clause of the United States Constitution, and is approved. The Court further finds that the Notice is reasonably calculated, under all circumstances, to apprise members of the Settlement Class of the pendency of this Action, the terms of the Settlement Agreement, and their rights under the Settlement Agreement, including the right to object to or exclude themselves from the settlement. Class Counsel and Webster's Counsel, by agreement, may revise the Notice in ways that are not material, or in ways that are appropriate to update those documents for purposes of accuracy or formatting for publication. Therefore, the Settlement Administrator is directed to send notice on or before 34 days after date of this order (the "Settlement Notice Date") in accordance with the Settlement Agreement, as follows:

a. **Email Notice.** Within thirty-four (34) days after the Preliminary Approval Date, the Settlement Administrator will email the Emailed Notice to all Class Members for whom the Settlement Claims Administrator is provided with a valid email address.

b. **Mail Notice.** Within thirty-four (34) days after the Preliminary Approval Date, the Settlement Administrator will send via U.S. mail, postage prepaid the Mailed Notice to all Class Members not presently enrolled at Webster or for whom the Settlement Claims Administrator does not have a valid email address, through regular U.S. Mail to such students' last known mailing address as listed in Webster's records. Prior to sending Mailed Notice, the Settlement Administrator will process the address of each person to whom Mailed Notice is to be sent through the U.S. Postal Service's National Change of Address database (the "Address Database"). The Notice will be mailed to the student's last known mailing address in Webster's records unless a different address is listed in the Address Database, in which case the notice will be mailed to the address listed in the Address Database. For up to thirty-five (35) days after the Settlement Notice Date, the Settlement Claims Administrator will re-mail notice via standard U.S. Mail, postage prepaid, to any updated addresses to the extent that it receives address change notifications and/or a forwarding address from the U.S. Postal Service or pursuant to a request from a person on the Class List.

c. **Settlement Website.** Within thirty-four (34) days after the Preliminary Approval Date, the Settlement Administrator will create the Settlement Website (www.WebsterUniversityrefundsettlement.com) that will include links to the Settlement Notice, the Settlement Agreement, the Claim Form, the Fee Application, Class Counsel's contact information, applicable deadlines, and orders of the Court pertaining to the settlement. Class Counsel and Webster's Counsel shall jointly approve any additional content in advance of posting on the Settlement Website. Class Counsel shall provide to the Settlement Administrator, as soon as practicable after filing, Class Counsel's Fee Application and motion for payment of service awards to the Class Representative, together with supporting memorandum and papers,

which the Settlement Administrator will post on the Settlement Website within 5 days of receipt from Class Counsel. The Court finds that the posting of the Fee Application on the Settlement Website constitutes a reasonable manner of serving the motion for the purpose of notifying Class Members.

10. No later than seven (7) days before the Final Approval Hearing (defined below), the Settlement Administrator shall provide the Court with a declaration showing that Notice was disseminated in accordance with this Order and the Settlement Agreement.

Exclusions

11. Any Class Members may elect to be excluded, or “opt-out” of the Settlement Agreement. A person who wishes to opt-out of the Settlement Agreement must submit by mail or email to the Settlement Claims Administrator a written, signed statement that states he or she is opting out of the settlement (“Opt-out Statement”). In order to be valid, the Opt-out Statement must include the Class Member’s name, address, and telephone number, and a statement indicating his or her intention to opt-out. No Opt-out Statement may be made on behalf of a group of persons. To be effective, an Opt-out Statement must be postmarked or emailed on or before 79 days after date of this order (or next business day thereafter).

12. Any person who properly and timely submits an Opt-out Statement shall not: (a) be bound by any orders or judgments entered in the Action relating to the Settlement Agreement; (b) be entitled to relief under, or be affected by, the Settlement Agreement; (c) gain any rights by virtue of the Settlement Agreement; or (d) be entitled to object to any aspect of the Settlement Agreement.

Objections

13. Any Settlement Class members who have not timely filed a request for exclusion may object to the fairness, reasonableness, or adequacy of the Settlement Agreement, or to a Final Judgment being entered in accordance with the terms of the Settlement Agreement, or to the attorneys' fees and expense reimbursement sought by Class Counsel, or to the requested service award to the Class Representative. To be considered, the objection must be filed with the Court and served on Class Counsel and Defendant's Counsel. To be valid, objections must be filed with the St. Louis County Circuit Clerk, 105 South Central Avenue, Clayton, MO. Any objections made by a Class Member who is represented by counsel must be filed through the Court's electronic filing system. Objections must be filed on or before 79 days after date of this order (or next business day thereafter).

14. The written statement of objection shall include: (1) the objector's name, address and telephone number; (2) an explanation of the basis upon which the objector claims to be a Class Member; (3) all grounds for the objection, including all citations to legal authority and evidence supporting the objection the objector wishes to introduce in support of the objection; (4) the name and contact information of any and all attorneys representing the objector in connection with the submission of the objection; (5) a statement indicating whether the objector intends to appear at the Final Approval Hearing (either personally or through counsel, and if through counsel, the identity of the counsel); (6) copies of any papers, briefs, declarations, affidavits or other documents upon which the objection is based; (7) the identity of all witnesses and/or exhibits the objector anticipates introducing at the Final Approval Hearing; (8) a detailed list of any other objections submitted by the Class Member, or his/her counsel, to any class actions submitted in any state or federal court in the United States in the previous five years (or

affirmatively stating that no such prior objection has been made); and (9) the objector's signature, in addition to the signature of the objector's attorney (if any) – an attorney's signature alone shall not be deemed sufficient to satisfy this requirement. Failure to include any of the information or documentation set forth in this paragraph shall be grounds for overruling and/or striking the objection.

15. Settlement Class members who fail to file and serve timely written objections in compliance with the requirements above shall be deemed to have waived any objections and shall be foreclosed from making any objections (whether by appeal or otherwise) to the Settlement Agreement, Fee Application, or any payment identified herein or awarded by the Court.

16. The procedures and requirements for filing objections in connection with the Final Approval Hearing are intended to ensure the efficient administration of justice and the orderly presentation of any Settlement Class member's objection to the Settlement, in accordance with the due process rights of all Settlement Class Members.

Final Approval Hearing

17. On [at least 100 days after the date of this Order] *to be determined*, at , this Court will hold a Final Approval Hearing on the fairness, adequacy, and reasonableness of the Settlement Agreement and Fee Application, and to determine whether Final Judgment approving the settlement and dismissing with prejudice all claims asserted in the Litigation against Webster University should be entered. The Final Approval Hearing may be postponed, adjourned, or rescheduled by order of the Court, and the Settlement Website shall be updated with any new Final Approval Hearing Date. No further notice to the Class is required.

Supplemental Filing Deadlines

18. Class Counsel shall file their Fee Application within forty-five (45) days after the date of this Preliminary Approval Order.

19. The Motion for Final Approval shall be filed after the Opt-Out/Objection Deadline, and no later than fourteen (14) days prior to the Final Approval Hearing.

20. If any deadline set forth in this Order falls on a Saturday, Sunday or federal holiday, then such deadline shall extend to the next Court business day.


21. Summary of Major Dates and Deadlines:

Settlement Website goes live	<u>12 - 2 -</u> , 2024 (34 days after the entry of this Order)
Settlement Notice Date	<u>12 - 2 -</u> , 2024 (34 days after the entry of this Order)
Class Counsel's Fee Application Deadline	<u>12 - 13 -</u> , 2024 (45 days after the entry of this Order)
Opt-Out Deadline	<u>+ b d</u> , 2024 (79 days after the Settlement Notice Date)
Objection/Notice of Intent to Appear Deadline	<u>+ b d</u> , 2024 (79 days after the Settlement Notice Date)
Motion for Final Approval	<u>to be determined</u> (14 days prior to Final Approval Hearing)
Final Approval Hearing	<u>to be determined</u>

22. Unless modified in this Order, the Court adopts and directs the parties to comply with all deadlines and obligations requiring action prior to the Final Approval Hearing set forth in the Settlement Agreement. Counsel for the Parties are hereby authorized to utilize all reasonable procedures in connection with the administration of the settlement that are not materially inconsistent with either this Order or the terms of the Settlement Agreement.

IT IS SO ORDERED.

DATED: 10-29-, 2024



Hon. Kristine A. Kerr