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7 Attorneys for Plaintiffs

8 **UNITED STATES DISTRICT COURT**
9 **NORTHERN DISTRICT OF CALIFORNIA**

10 THERESA SWEET, ALICIA DAVIS, TRESA
11 APODACA, CHENELLE ARCHIBALD,
DANIEL DEEGAN, SAMUEL HOOD, and
12 JESSICA JACOBSON on behalf of themselves
and all others similarly situated,

Case No.: 19-cv-03674-WHA

**DECLARATION OF REBECCA C.
ELLIS, ESQ.**

13 *Plaintiffs,*

14 v.

15 MIGUEL CARDONA, in his official capacity
16 as Secretary of the United States Department of
17 Education, and

18 THE UNITED STATES DEPARTMENT OF
19 EDUCATION,

20 *Defendants.*

1 I, Rebecca C. Ellis, state as follows:

2 1. I am an attorney in the Project on Predatory Student Lending at the Legal Services Center
3 of Harvard Law School. This office has been appointed to represent the certified class in this
4 action.

5 2. I am a member of good standing in the State Bar of Massachusetts and I have been
6 granted permission to practice *pro hac vice* before the Northern District of California in this matter.

7 3. I submit this declaration in support of Plaintiffs' Motion for Summary Judgment.

8 4. Attached hereto are true and correct copies of the following documents:

<u>Exhibit</u>	<u>Bates, AR, or ECF Reference (where applicable)</u>	<u>Document Title / Identifier</u>
1	DOE2144–2147	Memorandum from James Manning to Secretary Elisabeth DeVos, Subject: Action Items on Borrower Defense (dated May 4, 2017)
2	AR496–537	U.S. Dep't of Educ. Office of Inspector General, "Federal Student Aid's Borrower Defense to Repayment Loan Discharge Process" (dated Dec. 8, 2017)
3	-	Deposition of Mark Brown (excerpts)
4	-	Deposition of Colleen Nevin (excerpts)
5	DOE9509–9518	Federal Student Aid presentation, "Borrower Defense to Repayment" (dated Aug. 21, 2019)
6	DOE7209–7214	Detailed Briefing: Borrower Defense and 2016 Rule – Corinthian Colleges (CCi) and ITT Technical Institute (ITT) (undated)
7	DOE13647–13656	Memorandum from Diane Auer Jones and Mark Brown to Secretary Elisabeth DeVos, Subject: Request to Implement a New, Tiered-Relief Methodology to Adjudicate Current and Future BD Claims (dated Nov. 12, 2019)
8	-	Deposition of Diane Auer Jones (excerpt)
9	-	Video of Secretary DeVos's Remarks at Mackinac Conference, Sept. 2017; available at https://perma.cc/XQ6L-NR9Q
10	DOE7289–7291	Borrower Defense to Repayment (Diane Auer Jones talking points) (undated)

<u>Exhibit</u>	<u>Bates, AR, or ECF Reference (where applicable)</u>	<u>Document Title / Identifier</u>
11	-	Defendants' Responses and Objections to Plaintiffs' First Set of Interrogatories (excerpt), attaching document "How to Review a Borrower Allegation in a One-Off or Small Batch Application" (undated)
12	-	Press Release, U.S. Dep't of Educ., "Department of Education Announces Action to Streamline Borrower Defense Relief Process" (Mar. 18, 2021), <i>available at</i> https://www.ed.gov/news/press-releases/department-education-announces-action-streamline-borrower-defense-relief-process
13	ECF 129-1	Affidavit of Theresa Sweet (dated Aug. 16, 2020)
14	DOE7269-7271	Institutional Accountability Regulations (Formerly Called the Borrower Defense to Repayment Regulations) – Full Talking Points (undated)
15	-	Borrower Defense Quarterly Report for Quarter End 12/31/2021, <i>available at</i> https://studentaid.gov/data-center/student/loan-forgiveness/borrower-defense-data
16	-	Press Release, U.S. Dep't of Educ., "Department of Education Announces Approval of New Categories of Borrower Defense Claims Totaling \$500 Million in Loan Relief to 18,000 Borrowers" (June 16, 2021), <i>available at</i> https://www.ed.gov/news/press-releases/department-education-announces-approval-new-categories-borrower-defense-claims-totaling-500-million-loan-relief-18000-borrowers
17	-	Press Release, U.S. Dep't of Educ., "Department of Education Approves Borrower Defense Claims Related to Three Additional Institutions" (July 9, 2021), <i>available at</i> https://www.ed.gov/news/press-releases/department-education-approves-borrower-defense-claims-related-three-additional-institutions
18	-	Press Release, U.S. Dep't of Educ., "Education Department Approves \$415 Million in Borrower Defense Claims Including for Former DeVry University Students" (Feb. 16, 2022), <i>available at</i> https://www.ed.gov/news/press-releases/education-department-approves-415-million-borrower-defense-claims-including-former-devry-university-students
19	-	Press Release, U.S. Dep't of Educ., "Education Department Approves \$238 Million Group Discharge for

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		28,000 Marinello Schools of Beauty Borrowers Based on Borrower Defense Findings” (Apr. 28, 2022), <i>available at</i> https://www.ed.gov/news/press-releases/education-department-approves-238-million-group-discharge-28000-marinello-schools-beauty-borrowers-based-borrower-defense-findings
20	-	Borrower Defense to Repayment Loan Forgiveness Data – September 2019, <i>available at</i> https://studentaid.gov/datacenter/student/loanforgiveness/borrower-defense-data
21	-	Press Release, U.S. Dep’t of Educ., “Education Department Approves \$5.8 Billion Group Discharge to Cancel All Remaining Loans for 560,000 Borrowers Who Attended Corinthian” (June 1, 2022), https://www.ed.gov/news/press-releases/education-department-approves-58-billion-group-discharge-cancel-all-remaining-loans-560000-borrowers-who-attended-corinthian-colleges
22	DOE9291	Approval Rates (undated)
23	DOE8841–8843	Memorandum from Colleen Nevin to Mark Brown, Robin Minor, and Jeff Appel, Subject: Borrower Defense Quality Control Procedures (dated Aug. 18, 2019)
24	DOE6974	Excerpt from spreadsheet, Tab C – “Adjudication”
25	ECF 108-3	Affidavit of Alison Wright (dated Aug. 20, 2020)
26	DOE8693–8694	Borrower Defense Claim Review Productivity Requirements, Incentives and Support Plan – 2020
27	DOE6206–6508	Training Binder: Borrower Defense to Repayment July 2019
28	DOE6016–6022	Borrower Defense Unit Claims Review Protocol (dated Sept. 5, 2018)
29	ECF 140-1	Declaration of Mark A. Brown (dated Oct. 1, 2020)
30	AR494–495	Standard Protocol (undated)
31	ECF 151	Affidavit of Corey DePaul (dated Oct. 29, 2020)
32	-	Borrower Defense to Repayment Application, OMB 1845-0163
33	-	Borrower Defense to Repayment Application, OMB 1845-0146

<u>Exhibit</u>	<u>Bates, AR, or ECF Reference (where applicable)</u>	<u>Document Title / Identifier</u>
34	ECF 155	Affidavit of Jennifer Lezan
35	DOE4321-4322	Borrower Defense – Summary of Notice to Schools Process (undated)
36	ECF 159	Affidavit of Rebekah Norton
37	-	Defendants’ Supplemental Responses and Objections to Plaintiffs’ First Set of Interrogatories (dated Jan. 14, 2021)
38	-	Letter from James W. Runcie, Chief Operating Officer of Federal Student Aid, to Sharon Mar, Office of Information and Regulatory Affairs, Subject: Emergency Clearance of Information Collection to Allow for Receipt of Borrower Defense to Repayment Loan Discharge Claims (dated June 4, 2015)
39	ECF 108-11	Affidavit of Jessica Jacobson (dated Aug. 2020)
40	DOE6186	Borrower defense status data (excerpt)
41	DOE10647-10649	Initial Review of Medium Batch Applications: Davenport University (dated July 1, 2019)
42	DOE12560-12561	Initial Review of Medium Batch Applications: Southwest University (dated Oct. 11, 2019)
43	DOE12388-12389	Initial Review of Medium Batch Applications: San Diego College / Career College of San Diego (dated Oct. 10, 2019)
44	DOE2528-2529	Memorandum from Erin Conroy to Colleen Nevin, Subject: Borrower Defense Unit Investigation of Charlotte School of Law Prior to 2015 (dated May 12, 2020)
45	DOE4316-4320	Summary of Information Requested by Diane Regarding Loan Discharges Pursuant to 2016 Regulation (undated)
46	DOE9399-9412	Memorandum from Borrower Defense Unit to Under Secretary Ted Mitchell, Subject: Recommendation for ITT Borrowers Alleging That They Were Guaranteed Employment – California Students (dated Jan. 10, 2017)
47	DOE13704-13707	Elements of the UCL Applied to Heald Borrowers (dated May 14, 2015)
48	DOE13708-13725	Memorandum from Borrower Defense Unit to Under Secretary Ted Mitchell, Subject: Recommendation for Borrower Defense Relief for Heald College Borrowers

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		Alleging Transfer of Credits Claims (dated Oct. 20, 2016)
49	DOE7866-7879	Memorandum from Borrower Defense Unit to Under Secretary Ted Mitchell, Subject: Recommendation for Corinthian Borrowers Alleging That They Were Guaranteed Employment (dated Jan. 9, 2017)
50	DOE9626-9630	Memorandum from Daniel Davis to Colleen Nevin, Subject: Borrower Defense Unit Investigation of EDMC Schools July 1, 2003 – December 31, 2008 (dated Aug. 7, 2020)
51	DOE9519-9520	Memorandum from Alana Smith to Colleen Nevin, Subject: Borrower Defense Unit Investigation of Anthem Education Group (dated June 1, 2020)
52	DOE9550-9551	Memorandum from Michael Alonso to Colleen Nevin, Subject: Career Education Corporation (CEC) n/k/a Perdoceo Education Corporation (PEC) (dated Dec. 2, 2020)
53	DOE11331-11340	Initial Review of Medium Batch Applications: Keller Graduate School of Management (dated Apr. 3, 2020)
54	DOE10774-10782	Initial Review of Medium Batch Applications: Empire Beauty School (dated Aug. 24, 2020)
55	DOE10818-10825	Initial Review of Medium Batch Applications: Everglades University and Everglades College, d/b/a Keiser University (dated July 6, 2020)
56	DOE12873-12877	Initial Review of Medium Batch Applications: Universal Technical Institute (dated May 5, 2020)
57	DOE12673-12675	Initial Review of Medium Batch Applications: Suburban Technical School (dated Aug. 27, 2020)
58	DOE10870	Florida Career College – Evidence Considered Protocol
59	-	Assurance of Voluntary Compliance, <i>In re State of Texas & Career Education Corp.</i> , No. D-1-GN-19-000017 (Tex. Dist. Ct. Travis Cty., 353d Jud. Dist., Jan. 2, 2019), available at https://www.texasattorneygeneral.gov/sites/default/files/images/admin/2019/Press/FINAL%20CEC%20AVC%20attached%20to%20Petition%20wCauseNo.pdf

<u>Exhibit</u>	<u>Bates, AR, or ECF Reference (where applicable)</u>	<u>Document Title / Identifier</u>
60	AR602-603	Press Release, U.S. Dep't of Educ., "Secretary DeVos Approves New Methodology for Providing Student Loan Relief to Borrower Defense Applicants" (Dec. 10, 2019)
61	-	FRE 1006 Summary Exhibit: School-Specific Memoranda
62	ECF 108-8	Affidavit of Daniel Deegan (dated Aug. 12, 2020)
63	ECF 108-16	Affidavit of Yvette Colon (dated Aug. 13, 2020)

Signed under the penalty of perjury on June 9, 2022.

/s/ Rebecca C. Ellis

Rebecca C. Ellis, Esq.