IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF PENNSYLVANIA

JEFFREY LOGAN KEENHOL, *on behalf of himself and all others similarly situated*,

Plaintiff,

v.

DESALES UNIVERSITY,

Defendant.

Case No.: 5:24-cv-01083-JLS

PLAINTIFF'S MEMORANDUM OF LAW IN SUPPORT OF MOTION
FOR FINAL APPROVAL OF CLASS ACTION SETTLEMENT

TABLE OF CONTENTS

TABLE OF AUTHORITIES

Cases

Rules

Pursuant to Rule 23(e) of the Federal Rules of Civil Procedure, Named Plaintiff Jeffrey Logan Keenhol, on behalf of himself and the Settlement Class, respectfully submits this memorandum of law in support of his motion for final approval of the settlement reached in this Action, and for approval of the manner of distribution of the Net Settlement Fund (the "Distribution"). The terms of the settlement are set forth in the Settlement Agreement and Release, dated April 17, 2025 (the "Settlement Agreement," "Agreement," or "SA"). ECF 28-3.[1]

INTRODUCTION

Plaintiff brought this putative class action alleging that he and other similarly situated students are entitled to refunds of certain amounts of tuition and fees because, beginning in March 2020, DeSales University (hereinafter "DeSales" or "College") provided classes remotely in response to the COVID-19 pandemic. Plaintiff alleges he and all other DeSales students who paid tuition and/or mandatory fees for the Spring 2020 semester had implied contracts with DeSales that entitled them to in-person instruction, and that by switching to remote education in response to the COVID-19 pandemic, DeSales was liable for breach of implied contract or, in the alternative, unjust enrichment. DeSales denies those allegations.

The Agreement represents a fair, reasonable, and adequate result for the Settlement Class and thus satisfies each of the Rule 23(e)(2) factors, as well as the factors set forth in the Third Circuit decisions of *Girsh v. Jepson*, 521 F.2d 153, 156 (3d Cir. 1975) and *In re Prudential Ins. Co. Am. Sales Prac. Litig. Agent Actions*, 148 F.3d 283 (3d Cir. 1998). When compared to similar settlements in the COVID-19 tuition refund context, the Agreement here provides above-average benefits. *See infra* section IV(C). The Agreement is especially beneficial to the Settlement Class

[1] The capitalized terms in this memorandum shall be construed according to their meaning as defined in the Settlement Agreement, except as may otherwise be indicated.

considering the substantial litigation risks Plaintiff faced. Plaintiff and Class Counsel had a thorough understanding of the strengths and weaknesses of the case before reaching the settlement as they had conducted significant factual investigation into the merits of the claims, engaged in protracted settlement negotiations, and exchanged detailed enrollment and financial information with Defendant as part of the settlement process. *See* Declaration of Nicholas A. Colella ("Colella Decl."), ¶¶ 10, 11, 14.

Given the risks to proceeding with litigation and that the Agreement achieved a satisfactory resolution relative to the damages sustained, the $518,710 Settlement Amount, the forgiveness of outstanding student debt, and the proposed Distribution are fair, reasonable, and adequate in all aspects. Accordingly, Plaintiff respectfully requests the Court grant final approval of the Settlement Agreement under Rule 23(e) of the Federal Rules of Civil Procedure.

FACTUAL AND PROCEDURAL BACKGROUND

On March 13, 2024, Plaintiff Jeffrey Logan Keenhol filed a class action Complaint in the United States District Court for the Eastern District of Pennsylvania styled *Keenhol v. DeSales University*, Case No. 5:24-cv-01083 (the "Action") (ECF 1).

On May 16, 2024, DeSales filed its Answer and Affirmative Defenses to the Complaint, denying the allegations therein and that the Named Plaintiff or members of the putative class were entitled any damages as a result of DeSales's transition to remote instruction during the second half of the Spring 2020 semester. ECF 11. On June 18, 2024, the Court referred the case to U.S. Magistrate Judge Craig M. Straw for purposes of scheduling a settlement conference. ECF 12. On July 30, 2024, the Court held a Telephonic Pretrial Conference. ECF 16. On August 9, 2024, the Parties filed a proposed case management plan and indicated that they were in the process of scheduling mediation. ECF 18. The Court entered a Case Management Order on August 14, 2024. ECF 19.

Thereafter, in anticipation of mediation, the Parties exchanged detailed information related to the amount of tuition and fee payments made by or on behalf of the putative class members, the size of the putative class, and DeSales's tuition and fee refund policies and practices during the Spring 2020 semester. The Parties also provided each other and the mediator with detailed pre-mediation submissions setting forth their views on the merits of the case, the likelihood the case could be certified as a class action, the bona fides of the Named Plaintiff to represent the putative class, and positions on the factual support for and viability of the claims asserted in the Complaint. Finally, the Parties exchanged demands and offers in an effort to reach a settlement of the Action.

On October 10, 2024, the Parties held a full-day mediation session in front of the Honorable Judge Thomas J. Rueter (Ret.). During the mediation, the Parties were able to reach a settlement in principle, with the guidance of Judge Rueter. The Parties thereafter executed a Term Sheet encompassing the resolution and, over the ensuing months, the Parties negotiated the final terms of the Settlement and its supporting exhibits, which was submitted to the Court on May 9, 2025. ECF 28. The Court granted preliminary approval on June 3, 2025. ECF 29.

Based upon their independent analysis, and recognizing the risks of continued litigation, Class Counsel believes that the proposed Agreement is fair, reasonable, and adequate, and is in the best interest of Plaintiff and the Settlement Class. Although DeSales denies liability, it likewise agrees that Agreement is in the Parties' best interests. For those reasons, and because the Agreement is contingent on the Court's final approval, the Parties submit their Settlement Agreement to the Court for its final review.

TERMS OF THE PROPOSED SETTLEMENT AGREEMENT

I. THE PROPOSED SETTLEMENT CLASS

The proposed Settlement Class that received preliminary certification for settlement purposes is defined as:

> All students who satisfied all or part of their payment obligations to the University for Spring 2020 for tuition and/or Mandatory Fees (including the Student Activity Fee) and who were enrolled in at least one in-person, on-campus class.

ECF 29, ¶ 5. Excluded from the Settlement Class is: (i) all students who had their tuition and fee obligations completely funded by DeSales University for the Spring 2020 semester; (ii) Defendant; (iii) Defendant's officers, directors, agents, trustees, parents, children, corporations, trustees, representatives, employees, principals, servants, partners, joint venturers, and/or entitles controlled by Defendant; and/or (iv) Defendant's heirs, successors, assigns, or other persons or entities related to or affiliated with Defendant and/or Defendant's officers. *Id.* As of the Objection/Exclusion Deadline, and as of the date of this motion, there have been no Settlement Class Members who have objected, and only one who has excluded themselves from the Settlement Agreement. *See* Declaration of RG/2 Claims Administration LLC ("RG/2") ("RG/2 Decl."), ¶¶ 14-15.

II. MONETARY TERMS

The proposed Settlement Amount is a non-reversionary cash payment of Five Hundred Eighteen Thousand Seven Hundred Ten Dollars ($518,710.00). *See* SA ¶ 38. In accordance with the Settlement Agreement, the Settlement Administrator shall make deductions from the Settlement Amount for court-approved attorneys' fees and reasonable litigation costs, and fees and expenses for the Settlement Administrator. *See* SA ¶ 39. After all applicable fees, expenses and awards are deducted, the Net Settlement Fund will be distributed *pro rata* to each Settlement Class Member pursuant to the Settlement Agreement. SA ¶ 4. In addition to the cash payment, DeSales represents and warrants that it is no longer pursuing outstanding student debt owed from the Spring

2020 semester, such that class members with outstanding balances will not be pursued or subject to collections of any prior debt.

Following the Court's Preliminary Approval Order, DeSales paid fifty thousand ($50,000) into an escrow account with the Settlement Administrator. *See* SA ¶ 38. Within thirty (30) days after entry of the Final Approval Order, DeSales will pay the remaining Settlement Amount into the escrow account. *Id.* Within sixty (60) days after the Effective Date, the Settlement Administrator will send Settlement Class Members their Settlement Benefit by check, Venmo, or PayPal. *See* SA ¶¶ 7-8. The Settlement Administrator will pay all legally mandated Taxes prior to distributing the settlement payments to Settlement Class Members. *See* SA ¶ 43.

Settlement Class Members shall have one hundred twenty (120) days from the date of distribution of the checks to cash their check for the Settlement Benefit. All funds for Uncashed Settlement Checks shall, subject to Court approval, be returned to DeSales for a financial aid fund for DeSales students. *See* SA ¶¶ 1(mm), 8.

III. DISMISSAL AND RELEASE OF CLAIMS

Upon the Settlement becoming Final, Settlement Class Members shall be deemed to have forever released any and all causes of action, suits, claims, controversies, rights, agreements, promises, debts, liabilities, accounts, reckonings, covenants, contracts, losses, expenses, liens, demands, judgments, costs, damages, obligations, and all other legal responsibilities in any form or nature, including but not limited to, all claims relating to or arising out of state, local, or federal statute, ordinance, regulation, law or any other claim at common law or in equity, whether past, present, or future, known or unknown, asserted or unasserted, arising out of or in any way allegedly related to (i) tuition and/or mandatory fees paid at DeSales in connection with the Spring 2020 Semester, and/or (ii) the Action, and/or (iii) DeSales's transition to remote education and student services with respect to the COVID-19 pandemic, the closure or limitations on access to its campus and campus facilities, or the implementation or administration of such remote education during the Spring 2020 semester. This definition includes but is not limited to all claims that were brought or could have been brought in the Action. These releases were described in the Court-approved Long Form Class Notice.

IV. RESULTS OF SETTLEMENT ADMINISTRATION AND NOTICE

Following the Court's Preliminary Approval Order, the Settlement Administrator completed the Notice plan set forth in the Settlement. *See generally* RG/2 Decl. The Notice plan was designed to reach as many Settlement Class Members as practicable. The Notice included the required description of the material Settlement terms; the deadline for Settlement Class Members to opt-out of the Settlement Class; the deadline for Settlement Class Members to object to the Settlement; and the Settlement Website at which Settlement Class Members could access the Long Form Notice, Settlement Agreement, and other related documents and information. RG/2 Decl., ¶ 8; RG/2 Decl., Ex. B.

Pursuant to the Court's Preliminary Approval Order, DeSales provided RG/2 with the Class List containing information sufficient to provide Settlement Class Members with direct notice. The Settlement Class List contained information for 1,889 Settlement Class Members. RG/2 Decl., ¶ 7. RG/2 then processed the Class List names and addresses through the United Stated Postal Service ("USPS") National Change of Address database and updated the data with corrected information. *Id*. Thereafter, on July 18, 2025, RG/2 sent email notice to the Settlement Class Members. RG/2 Decl., ¶ 8. Of those 1,889 emails that were sent, 1,356 were delivered successfully. *Id*. RG/2 then sent 533 notices via First Class Mail to those Settlement Class Members whose email address was invalid. *Id*. Subsequent to the initial notice, DeSales identified an additional 282 Settlement Class Members, and also determined that the initial list of 1,889 contained information for 123 individuals who were not Settlement Class Members, meaning the class size was 2,048 total. RG/2 Decl., ¶ 12. For those 282 additional Settlement Class Members, RG/2 emailed notice on September 3, 2025. RG/2 Decl., ¶ 13. Of those 282 notices, 27 were returned as undelivered, and those Settlement Class Members received notice via U.S. Mail. *Id.* Of all of the notices that were mailed, 10 were returned as undeliverable. RG/2 Decl. ¶ 16. RG/2 performed an extensive skip-trace on those 10 Settlement Class Members, and were able to update the address and send notice to 8 Settlement Class Members. *Id.* A total of 2 notices remain undelivered. *Id.*

Further, on July 18, 2025, RG/2 established an informational Settlement Website, www.desalescovidsettlement.com, allowing Settlement Class Members to obtain detailed information about the Action, the Settlement, and to review important documents, including the Long Form Notice, Settlement Agreement, and other relevant documents. RG/2 Decl., ¶ 9.

As a result of the Notice plan, approximately 99.9% of the Settlement Class Members received direct notice of the Settlement. The deadline to submit an objection to or opt out of the Settlement occurred on October 2, 2025. To date, no Settlement Class Member has objected to the Settlement, and only one Settlement Class Member has submitted a request for exclusion. RG/2 Decl., ¶¶ 14-15.

ARGUMENT

I. STANDARD FOR FINAL APPROVAL OF CLASS ACTION SETTLEMENTS.

A. The Law Favors and Encourages Settlements.

"[T]here is an overriding public interest in settling class action litigation, and it should therefore be encouraged." *In re Warfarin Sodium Antitrust Litig.*, 391 F.3d 516, 535 (3d Cir. 2004). Additionally, "[t]he law favors settlement particularly in class actions and other complex cases where substantial judicial resources can be conserved by avoiding formal litigation." *In re Gen. Motors Corp. Pick-Up Truck Fuel Tank Prod. Liab.*, 55 F.3d 768, 784 (3d Cir. 1995). But, the final approval of settlement is left to the discretion of the court. *Eichenholtz v. Brennan*, 52 F.3d 478, 482 (3d Cir. 1995). Courts in this Circuit have great discretion in such matters: "The decision of whether to approve a proposed settlement of a class action is left to the sound discretion of the district court." *Girsh*, 521 F.2d at 156; *Lazy Oil Co. v. Witco Corp.*, 166 F.3d 581, 587 (3d Cir. 1999). In order to grant final approval of a class action settlement, the Court must first determine whether a class can be certified under Rule 23(a) and at least one prong of Rule 23(b). *Amchem Prods., Inc. v. Windsor*, 521 U.S. 591, 620 (1997).

B. The Settlement Must be Procedurally and Substantially Fair, Adequate, and Reasonable.

Federal Rule of Civil Procedure 23(e) provides the applicable standard for judicial approval of a class action settlement. Rule 23(e)(2), as amended, provides that courts should consider certain factors when determining whether a class action settlement is "fair, reasonable and adequate" such that final approval is warranted:

(A) whether the class representatives and class counsel have adequately represented the class;
(B) whether the proposal was negotiated at arm's-length;
(C) whether the relief provided for the class is adequate, taking into account:
  (i) the costs, risks and delay of trial and appeal;
  (ii) the effectiveness of any proposed method of distributing relief to the class, including the method of processing class-member claims;
  (iii) the terms of the proposed award of attorneys' fees, including timing of payment; and
  (iv) any agreement required to be identified under Rule 23(e)(3); and
(D) whether the proposal treats class members equitably relative to each other.

See Fed. R. Civ. P. 23(e)(2).

In addition to the foregoing factors, the Third Circuit considers additional factors, the first set of which comes from *Girsh*, 521 F.2d at 156:

(1) the complexity, expense and likely duration of the litigation;
(2) the reaction of the class to the settlement;
(3) the stage of the proceedings and the amount of discovery completed;
(4) the risks of establishing liability;

(5) the risks of establishing damages;
(6) the risks of maintaining the class action through the trial;
(7) the ability of the defendant to withstand a greater judgment;
(8) the range of reasonableness of the settlement fund in light of the best possible recovery; and
(9) the range of reasonableness of the settlement fund to a possible recovery in light of all the attendant risks of litigation.

Id. Importantly, no single *Girsh* factor is dispositive. The Third Circuit has explained: "a court may approve a settlement even if it does not find that each of [the *Girsh*] factors weigh in favor of approval." *In re N.J. Tax Sales Certificate Antitrust Litig.*, 750 F. App'x 73, 77 (3d Cir. 2018).

In addition to the *Girsh* factors, the Third Circuit, in *In re Prudential,* 148 F.3d at 324, elaborated on additional factors that reviewing courts should consider when deciding whether to approve a proposed class action settlement. These factors were then clarified in *In re Pet Food Prods. Liab. Litig.* 629 F.3d 333, 350 (3d Cir. 2010). These *Prudential* factors overlap with the *Girsh* factors and are non-exclusive. But, importantly, only the factors relevant to the litigation need to be addressed. *In re Prudential*, 148 F.3d at 323–24. The *Prudential* factors are:

(1) the maturity of the underlying substantive issues, as measured by experience in adjudicating individual actions, the development of scientific knowledge, the extent of discovery on the merits, and other factors that bear on the ability to assess the probable outcome of a trial on the merits of liability and individual damages;
(2) the existence and probable outcome of claims by other classes and subclasses;
(3) the comparison between the results achieved by the settlement for individual class or subclass members and the results achieved or likely to be achieved for other claimants;
(4) whether class or subclass members are accorded the right to opt-out of the settlement;
(5) whether any provisions for attorneys' fees are reasonable; and
(6) whether the procedure for processing individual claims under the settlement is fair and reasonable.

Id. As discussed in more detail below, the proposed Settlement satisfied the requirements of Rule 23, the *Girsh* factors, and the relevant *Prudential* factors, and should be granted final approval.

II. THE PROPOSED SETTLEMENT IS PROCEDURALLY AND SUBSTANTIALLY FAIR, ADEQUATE, AND REASONABLE.

A. The Settlement Satisfies the Requirements of Rule 23(e)(2).

1. Plaintiff and Class Counsel Have Adequately Represented the Settlement Class.

When analyzing whether a proposed class action settlement is fair, reasonable, and adequate, the Court must consider whether "the class representative[] and class counsel have adequately represented the class." Fed. R. Civ. P. 23(e)(2)(A). "The adequacy requirement encompasses two distinct inquiries designed to protect the interests of absentee class members: it considers whether the named plaintiffs' interests are sufficiently aligned with the absentees', and it tests the qualifications of the counsel to represent the class." *Ripley v. Sunoco, Inc.*, 287 F.R.D. 300, 309 (E.D. Pa. 2012); *see also Dewey v. Volkswagen Aktiengesellschaft*, 681 F.3d 170, 182 (3d Cir. 2012). This test "assures that the named plaintiffs' claims are not antagonistic to the class and that the attorneys for the class representatives are experienced and qualified to prosecute the claims on behalf of the entire class." *Beck v. Maximus, Inc.*, 457 F.3d 291, 296 (3d Cir. 2006) (citation and quotation marks omitted). Here, both prongs of the adequacy test are met. First, Plaintiff's interests are aligned with those of the Settlement Class as they were all students who attended DeSales during the Spring 2020 semester and enrolled in in-person classes. Second, Class Counsel are highly experienced in class action litigation, especially in the tuition refund context. Class Counsel's qualifications are set forth in the Declarations of Nicholas A. Colella (ECF 28-2) and Anthony M. Alesandro (ECF 28-5) and the Firm Resumes of Lynch Carpenter, LLP and Leeds Brown Law, P.C. (ECFs 28-4, 28-6) submitted in support of preliminary approval.

Additionally, Plaintiff and Class Counsel have adequately represented the Settlement Class by zealously prosecuting this Action, including by, among other things, extensive investigation and other litigation efforts throughout the prosecution of the Action, including, *inter alia*: (1)

researching and drafting the initial complaint in the Action; (2) researching the applicable law with respects to the claims in the Action and the potential defenses thereto; (3) actively participating in similar College and University class actions filed across the country; and (4) engaging in extensive settlement discussions with Defendant's counsel and the exchange of information during informal discovery. *See generally* Colella Decl. Through each step of the Action, Plaintiff and Class Counsel have strenuously advocated for the best interests of the Settlement Class. Plaintiff and Class Counsel therefore satisfy Rule 23(e)(2)(A) for purposes of final approval.

2. The Proposed Settlement Was Negotiated at Arm's Length.

The proposed Settlement satisfies Rule 23(e)(2)(B) because the Settlement is the product of arm's-length negotiations between the Parties' counsel overseen by an experienced mediator, Hon. Thomas J. Rueter (Ret.). Colella Decl., ¶¶ 18, 24. Further, it is well settled that in the Third Circuit class action settlements enjoy a presumption of fairness under review when: "(1) the negotiations occurred at arm's length; (2) there was sufficient discovery; (3) the proponents of the settlement are experienced in similar litigation; and (4) only a small fraction of the class objected." *In re Nat'l Football League Players Concussion Inj. Litig*., 821 F.3d 410, 436 (3d Cir. 2016), *as amended* (May 2, 2016). Given the above and the Declaration attached hereto, Rule 23(e)(2)(B) is satisfied.

3. The Proposed Settlement Is Adequate in Light of the Litigation Risks, Costs and Delays of Trial and Appeal.

Rule 23(e)(2)(C)(i) and both sets of factors described above overlap as they address the risks posed by continuing litigation. In fact, the first *Girsh* factor is directly analogous to Rule 23(e)(2)(C)(i). As further explained below, all these factors (to the extent relevant) weigh in favor of final approval of the Settlement.

a. **The Risks of Establishing Liability.**

In considering the risks of establishing liability, courts often consider the complexity of the issues and magnitude of the proposed settlement class. *In re Prudential*, 148 F.3d at 318. Here, while DeSales initially answered Plaintiff's Complaint, if the current action were to proceed, it is likely that DeSales would have contested the propriety of Plaintiff's claims at summary judgment (which could have resulted in the dismissal of the case). *See Bergeron v. Rochester Inst. of Tech.*, No. 20-CV-6283 (CJS), 2023 WL 1767157, at *11 (W.D.N.Y. Feb. 3, 2023), *aff'd sub nom. Bergeron v. Rochester Inst. of Tech.*, No. 23-271, 2024 WL 5054841 (2d Cir. Dec. 10, 2024) (granting university's motion for summary judgment as to breach of implied contract and unjust enrichment and dismissing case). It is also likely that DeSales would have contested whether Plaintiff could ultimately certify a class. *Omori v. Brandeis Univ.*, 673 F. Supp. 3d 21, 29 (D. Mass. 2023) (denying student's motion for class certification as to tuition and fees). This sort of contention between the parties would become complicated and lengthy, given the current stage of litigation. Additionally, any recovery from trial would be subject to a jury's opinion and likely appeal from either party. Considering the scenarios, the risks of continuing this litigation are very substantial, even assuming favorable facts in Plaintiff's favor.

Moreover, issues regarding responsibility for university closure are very apparent given the governmental orders for class cancellation and campus closure. DeSales likely would have filed a motion for summary judgment in which it would argue that (1) the descriptions of the fees at issue cannot support a contract claim; (2) there was never a promise to provide in-person education in exchange for tuition; (3) it was impossible to perform under Covid-19 governmental orders; and (4) Plaintiff and members of the Class still received education and obtained credits. DeSales would also likely file a comprehensive opposition to class certification in which it would argue that Plaintiff would not be able to show a material class-wide breach or unjust enrichment.

DeSales would also argue that: (1) Plaintiff could not satisfy Rule 23(a)'s typicality requirement for several reasons; (2) Plaintiff's proposed Rule 23(b)(3) class was not ascertainable; (3) Plaintiff could not show causation or the existence or terms of a contract on class-wide bases; and (4) that class litigation was not superior to individual litigation. While Plaintiff does not concede the validity of any of DeSales's arguments, Plaintiff acknowledges that DeSales could raise legitimate arguments at both summary judgment and class certification as demonstrated by the cases above.

In comparison to the risks as discussed above, the Settlement as it stands currently is an excellent result for the Settlement Class as it provides above-average benefits. *See infra* section IV(C).

b. **The Risks of Establishing Damages at Trial.**

The risks of establishing liability apply with equal force to the risks of establishing damages. If this litigation were to continue, Plaintiff would rely heavily on expert testimony to establish damages, likely leading to a battle of the experts at trial and a *Daubert* challenge. If the Court were to determine that one or more of Plaintiff's experts should be excluded from testifying at trial, Plaintiff's case would become much more difficult to prove. Moreover, while Defendant did shift to distance learning and requested that most students leave campus, these steps were due to Covid-19 and the accompanying government orders, providing DeSales with an impossibility defense. Plaintiff has never disputed the necessity of these actions; the issue is whether Plaintiff and the Settlement Class were entitled to a refund of tuition and fees paid to DeSales, and a potential impossibility defense raises a risk of establishing damages and the form of such damages (*i.e.*, compensatory or restitution). Thus, in light of the significant risks Plaintiff faced at the time of the settlement with regard to establishing damages, including the possibility that Plaintiff would not be able to establish damages for each student, this factor weighs heavily in favor of final approval.

c. The Settlement Eliminates the Additional Costs and Delay of Continued Litigation.

The anticipated complexity, cost, and duration of the Action would be considerable, and these factors are critical in a Court's evaluation of proposed settlements. *See Girsh*, 521 F.2d at 157 (holding that the complexity, expense, and likely duration of litigation are critical factors in evaluating the reasonableness of a settlement). Indeed, if not for the Settlement, litigation would continue, and there is a high likelihood it will be expensive, protracted, and contentious litigation. Colella Decl., ¶¶ 16, 19-20. As stated previously, this would consume significant funds and expose Plaintiff and the Settlement Class to many risks and uncertainties. The preparation for what would likely be a multi-week trial and possibly appeals, would cause the Action to persist for likely several more years before the Settlement Class could possibly receive any recovery. Such a lengthy and highly uncertain process would not serve the best interests of the Settlement Class when compared to the immediate certain monetary benefits of the Settlement. *Id*. Accordingly, this Rule 23(e)(2)(C)(i) factor, as well as the analogous *Girsh* factors, all weigh in favor of final approval.

d. The Proposed Method for Distributing Relief Is Effective.

With respect to Rule 23(e)(2)(C)(ii), Plaintiff and Class Counsel have taken appropriate steps to ensure that the Settlement Class is notified about the Settlement and that the Settlement Benefits are properly distributed.

After all applicable fees, expenses and awards are deducted, the Net Settlement Fund will be distributed *pro rata* to each Settlement Class Member pursuant to paragraph 4 of the Settlement Agreement. Each Settlement Class Member's Settlement Benefit will be distributed to that Settlement Class Member automatically, with no action required by that Settlement Class Member.

By default, the Settlement Administrator will send the Settlement Benefit to each Settlement Class Member by check mailed to the Settlement Class Member's last known mailing address on file with DeSales. The Settlement Administrator has also provided a form on the Settlement Website that the Settlement Class Members may visit to provide an updated address for sending a check, or to elect receiving payment by Venmo or PayPal. Funds for Uncashed Settlement Checks shall, subject to Court approval, be returned to DeSales for a financial aid fund for DeSales students.

e. **Class Counsel's Request for Attorneys' Fees Is Reasonable.**

Rule 23(e)(2)(C)(iii) addresses "the terms of any proposed award of attorney's fees, including timing of payment." Fed. R. Civ. P. 23(e)(2)(C)(iii). Consistent with the fee request plainly documented in the Notice, and as discussed in Class Counsel's fee memorandum, Class Counsel sought an award of attorneys' fees in the amount of thirty-three and one-third percent of the Settlement Fund and expenses to be paid from the Settlement Fund. Such amounts are presumptively reasonable and in line with requests frequently approved in this circuit. For example, in *In re Ravisent Techs., Inc. Sec. Litig.*, Judge Surrick noted that "courts within [the Third] Circuit have typically awarded attorneys' fees of 30% to 35% of the recovery, plus expenses." No. CIV.A.00-CV-1014, 2005 WL 906361 (E.D. Pa. Apr. 18, 2005) (citing *In re CareSciences. Inc. Sec. Litig.*, Civ. A. No. 01–5266 (E.D. Pa. Oct. 29, 2004)) (awarding one-third recovery of $3.3 million settlement fund, plus expenses).

f. **The Settlement Ensures Settlement Class Members Are Treated Equitably.**

Rule 23(e)(2)(D), the final factor, considers whether class members are treated equitably. As reflected in the Settlement Agreement, the proposed Settlement treats Settlement Class Members equitably relative to each other as all Settlement Class Members will recover a *pro rata* payout that corresponds to their individual shares of the potential damages suffered by the class. This approach clearly satisfies the fair and equitable treatment requirement. "A district court's 'principal obligation' in approving a plan of allocation 'is simply to ensure that the fund distribution is fair and reasonable as to all participants in the fund.'" *Sullivan v. DB Invs., Inc.*, 667 F.3d 273, 326 (3d Cir. 2011) (quoting *Walsh v. Great Atl. & Pac. Tea Co., Inc.*, 726 F.2d 956, 964 (3d Cir. 1983)).

Based on the foregoing, Plaintiff and Class Counsel respectfully submit that each of the Rule 23(e)(2) factors support granting final approval of the settlement.

III. THE *GIRSH* FACTORS FAVOR SETTLEMENT.

A. The Complexity, Expense, and Likely Duration of the Litigation.

The first *Girsh* factor is satisfied. As discussed above, this Action raises complex factual and legal questions regarding the alleged non-deliverance of in-person education and services supported by the tuition and fees at issue. The matter at hand has had a thorough preliminary investigation and discovery and lengthy, hard-fought negotiations. The continued prosecution of these claims will require significant additional expenses to the class, given further discovery and experts. Further, no matter the outcome at the district court level, the result will likely be appealed, leading to further costs and delay any realized recovery. Thus, this settlement would avoid a myriad of unnecessary expenditures related to said further litigation. This avoidance benefits all parties while providing the Settlement Class with immediate benefits, and, thus, weighs in favor of approving settlement. *In re Gen. Motors*, 55 F.3d at 812 (holding that lengthy discovery and potential opposition by the defendant were factors weighing in favor of settlement).

B. The Reaction of the Class to the Settlement.

The second *Girsh* factor to consider is the reaction of the class to the settlement. To determine such a reaction, the number of objectors to the settlements is often evaluated. *In re CertainTeed Corp. Roofing Shingle Prods. Liab. Litig.*, 269 F.R.D. 468, 485 (E.D. Pa. 2010) (citing *In re Cendant Corp. Litig.*, 264 F.3d 201, 234–35 (3d Cir. 2001)). Further, silence "constitutes tacit consent to the agreement." *Bell Atl. Corp. v. Bolger*, 2 F.3d 1304, 1313 n.15 (3d Cir. 1993). Finally, a low number of objectors or opt-outs is persuasive evidence that the proposed settlement is fair and adequate. *Serrano v. Sterling Testing Sys., Inc.*, 711 F. Supp 2.d 402, 415 (E.D. Pa. 2010) (citing *In re Cendant*, 264 F.3d at 234–35).

This factor is satisfied as there have been only one opt-one and no objections among class members, after being given notice of such settlement. *See* RG/2 Decl., ¶¶ 14-15.

C. The Stage of the Proceedings and the Amount of Discovery Completed.

The third *Girsh* factor "captures the degree of case development that class counsel [had] accomplished prior to settlement." *In re Cendant*, 264 F.3d at 235. In assessing this third factor, courts must evaluate the procedural stage of the case at the time of the proposed settlement to assess whether counsel adequately appreciated the merits of the case while negotiating. *See In re Warfarin*, 391 F.3d at 537. This does not require the parties to complete discovery. *See Tumpa v. IOC-PA, LLC*, No. 3:18-cv-112, 2021 WL 62144, at *8 (W.D. Pa. Jan. 7, 2021) (approving a settlement where the "limited discovery" was sufficient to provide the parties "with an appreciation of the merits of the case"). While the parties did not engage in extensive formal discovery, the informal discovery produced via the mediation process, review of publicly available financial statements, along with the help of neutral Hon. Thomas J. Rueter (Ret.), provided the information Class Counsel needed to objectively evaluate the strengths and weaknesses of Plaintiff's and Settlement Class Members' claims. *See* Colella Decl., ¶¶ 10, 11, 14. At its current stage, the litigation is ripe for settlement, and thus this factor favors final approval.

D. The Risks of Establishing Liability and Damages and the Risks of Maintaining the Class Action through Trial.

The fourth and fifth *Girsh* factors survey the possible risks of litigation in order to balance the likelihood of success and the potential damage award if the case were taken to trial against the benefits of an immediate settlement." *In re NFL*, 821 F.3d at 439 (citing *In re Prudential*, 148 F.3d at 319).[2] While Plaintiff and Class Counsel strongly believe in the merits of the case, they acknowledge the substantial risks they face at summary judgment and at class certification. *See Beck v. Manhattan Coll.*, No. 20 CIV. 3229 (LLS), 2023 WL 4266015, at *3 (S.D.N.Y. June 29, 2023), *appeal withdrawn*, No. 23-1049, 2023 WL 9233971 (2d Cir. Oct. 30, 2023) (granting summary judgment on tuition and fee claims in favor of college); *In re Suffolk Univ. Covid Refund Litig.*, No. CV 20-10985-WGY, 2022 WL 6819485, at *4 (D. Mass. Oct. 11, 2022) (denying student motion for class certification). While Plaintiff and Class Counsel are confident that they could overcome any summary judgment motion DeSales could bring and are also confident they could certify a class, Plaintiff's success is far from certain. Through the Settlement, Plaintiff and Settlement Class Members gain significant benefits without having to face further risk of not receiving any relief at all. As such, these factors weigh in favor of final approval.

E. The Ability of Defendant to Withstand a Greater Judgment.

The Seventh *Girsh* factor considers "whether the defendant[s] could withstand a judgment for an amount significantly greater than the settlement." *In re Warfarin,* 391 F.3d at 537–38. This factor "is most relevant when the defendant's professed inability to pay is used to justify the amount of the settlement." *In re NFL*, 821 F.3d at 440. Although DeSales may have the ability to withstand greater judgment, the favorable result here—a $518,710 settlement—compared to the risks and expenses attendant to conducting this litigation and the immediacy of the benefit to

[2] The risks of maintaining the class action through "measures the likelihood of obtaining and keeping a class certification if the action were to proceed to trial." *In re Warfarin,* 391 F.3d at 537. "Because class certification is subject to review and modification at any time during the litigation, the uncertainty of maintaining class certification favors settlement," but warrants only minimal consideration. *In re Nat. Football League Players' Concussion Inj. Litig.*, 307 F.R.D. 351, 394 (E.D. Pa. 2015) (citing *Zenith Labs., Inc. v. Carter–Wallace, Inc.,* 530 F.2d 508, 512 (3d Cir. 1976)).

Settlement Class Members weigh in favor of settlement. *See In re Linerboard Antitrust Litig.*, 321 F. Supp. 2d 619, 632 (E.D. Pa. 2004) ("[T]he settling defendant's ability to pay greater amounts [may be] outweighed by the risk that the plaintiffs would not be able to achieve any greater recovery at trial."). As such, this factor was in favor of final approval.

F. The Range of Reasonable in Light of Best Possible Recovery and All Attendant Risks of Litigation.

In evaluating the eighth and ninth *Girsh* factors, courts ask "whether the settlement represents a good value for a weak case or a poor value for a strong case." *In re Warfarin*, 391 F.3d at 538. "The factors test two sides of the same coin: reasonableness in light of the best possible recovery and reasonableness in light of the risks the parties would face if the case went to trial." *Id.* As such, "[t]his inquiry measures the value of the settlement itself to determine whether the decision to settle represents a good value for a relatively weak case or a sell-out of an otherwise strong case." *In re Gen. Motors*, 55 F.3d at 813. Given that Covid-19 litigation is an emerging area of law, the risk of continued litigation is significant, making the instant Settlement, which provides significant relief to the class now as opposed to years of litigation without the guarantee of recovery, even more reasonable.

IV. THE *PRUDENTIAL* FACTORS ARE SATISFIED

A. Maturity of the Substantive Issues.

"The first [*Prudential*] factor—maturity of the underlying substantive issues—substantially mirrors the third *Girsh* factor, the stage of the proceedings. Under this factor, the advanced development of the record weighs in favor of approval." *In re Suboxone (Buprenorphine Hydrochloride & Naloxone) Antitrust Litig.*, No. 13-MD-2445, 2024 WL 815503, at *9 (E.D. Pa. Feb. 27, 2024). Here, given Class Counsel's knowledge of the applicable law in the tuition refund context, the substantive issues in this matter are quite mature. Due to the investigation and discussion throughout the litigation of this Action and the Parties' mediation before Hon. Thomas J. Rueter (Ret.), both Parties are in a position to fully evaluate their own strengths and weaknesses. The stage of this Action lends itself in favor of final approval of the Settlement.

B. The Existence and Probable Outcome of Claims by Other Classes and Subclasses.

Since only one class member has elected to be excluded, this factor weighs heavily in favor of approval. *See* RG/2 Decl., ¶ 14.

C. The Comparison between the Results Achieved by the Settlement for Individual Class or Subclass Members and the Results Achieved or Likely to be Achieved for Other Claimants

This Settlement is fair and reasonable and provides DeSales students with a favorable per student settlement value. Here, this Settlement's $253 per student value[3] is comparable to, if not better than, other tuition refund settlements that have been litigated for years. *See, e.g.*, *Staubus v. University of Minnesota et al.*, No. 27-cv-20-8546 (Minn. Dist. Ct.) ($3.25 million settlement with a per student recovery of approximately $60); *Pfeifer et al. v. Loyola University of Chicago*, No. 1:20-cv-03116 (N.D. Ill.) ($1.375 million settlement with a per student recovery of approximately $88 per student); *Espejo et al. v. Cornell University*, No. 3:20-cv-00467-MAD-ML (N.D.N.Y.) ($3 million settlement with a per student recovery of $115); *Rocchio et al. v. Rutgers, The State University of New Jersey*, No. MID-L-003039-20 (N.J. Super. Ct.) (approximately $77 per student); *Choi et al. v. Brown University*, No. 1:20-cv-00191 (D.R.I.) (approximately $155 per student); *Smith v. University of Pennsylvania*, No. 20-2086 (E.D. Pa.) (approximately $173 per student); *Levin v. Board of Regents of the University of Colorado*, No. 2020cv31409 (Colo. Dist. Ct., Denver Cnty.) (approximately $75 per student). In comparison, the approximately $253

[3] Value based on the final Class List, which identified 2,048 Settlement Class Members.

settlement benefit here is greater than all of those settlements. This does not include the benefit of DeSales waiving their right to collect outstanding student debt from the Spring 2020 semester.

Given the risks of litigation, this value is fair and proportional. It is unlikely that Plaintiff could bring these claims on his own, given the imbalance between the cost of litigation and the limited ability to recover damages. These claims also would be subject to the same defenses that are outlined above. As such, this *Prudential* factor weighs heavily in favor of final approval.

D. Whether Class or Subclass Members Are Accorded the Right to Opt-Out of the Settlement.

"Factor four considers whether class or subclass members are accorded the right to opt out of the settlement." *In re Suboxone*, 2024 WL 815503, at *10. Here, after the Court's Preliminary Approval Order, Notice was provided to the Settlement Class detailing the opt-out procedure and deadline. To date, only one class member has opted out. As such, this *Prudential* factor weighs in favor of final approval.

E. Whether Any Provisions for Attorneys' Fees Are Reasonable

As discussed above, the Settlement's provision for attorneys' fees is reasonable and within the range of attorneys' fee awards commonly awarded in this Circuit, and the Notice specifically advised Settlement Class Members of the attorneys' fees and expenses Class Counsel would request the Court to approve. As such, this *Prudential* factor weighs in favor of final approval.

F. Whether the Procedure for Processing Individual Claims under the Settlement Is Fair and Reasonable.

Under the settlement scheme, the procedure for individual claims is reasonable. Each Settlement Class Member will automatically receive their settlement benefit without the need to take any action. Thus, this *Prudential* factor weighs in favor of final approval.

V. THE MANNER OF DISTRIBUTION OF THE NET SETTLEMENT FUND IS FAIR AND ADEQUATE.

The standard for approval of a proposed distribution of settlement funds to a class is the same as the standard for approving the settlement itself, *i.e.*, that the distribution plan is fair, reasonable, and adequate. *See In re Suboxone*, 2024 WL 815503, at *11. "In general, a plan of allocation that reimburses class members based on the type and extent of their injuries is reasonable." *Id.* (citation omitted); *see also Bradburn Parent Teacher Store, Inc. v. 3M (Minnesota Mining and Manufacturing Company)*, 513 F. Supp. 2d 322, 335 (E.D. Pa. 2007) (approving as reasonable a distribution plan that allocated settlement funds to class members based upon their *pro rata* share of the class's total transparent tape purchases during the damage period, net of invoice adjustments and rebates paid as of the date of the settlement).

Plaintiff and Class Counsel believe that the proposed manner of distribution is fair and reasonable, and respectfully submit it should be approved by the Court. Indeed, as noted above, the manner of distribution treats the Settlement Class equitably; each Settlement Class Member will automatically receive their *pro rata* Settlement Benefit pursuant to paragraph 4 of the Settlement Agreement, without the need to take any action. Notably, there have been no objections to the distribution proposal to date, which supports approval of the distribution plan.

VI. THE COURT SHOULD FINALLY CERTIFY THE SETTLEMENT CLASS FOR PURPOSES OF EFFECTUATING THE SETTLEMENT.

In his motion for preliminary approval of the settlement, Plaintiff requested that the Court certify the Settlement Class for settlement purposes only so that notice of the Settlement, the Final Approval Hearing, and the rights of Settlement Class Members to object to the Settlement and request exclusion from the Settlement Class could be issued. For purposes of effectuating this Settlement, the Court should finally certify the Settlement Class. As mentioned in the Court's

Order, dated June 3, 2025, the Court preliminarily certified the proposed class. The class, as preliminary certified is:

> All students who satisfied all or part of their payment obligations to the University for Spring 2020 for tuition and/or Mandatory Fees (including the Student Activity Fee) and who were enrolled in at least one in-person, on-campus class.

ECF 29, ¶ 5. Since the Court's entry of the Preliminary Approval Order, nothing has changed to alter the propriety of the Court's preliminary certification of the Settlement Class for settlement purposes. Colella Decl., ¶ 13. Thus, for all of the reasons stated in Plaintiff's Motion for Preliminary Approval (ECF 28) (incorporated herein by reference), Plaintiff respectfully request that the Court affirm its preliminary certification and finally certify the Settlement Class for purposes of carrying out the settlement pursuant to Fed. R. Civ. P. 23(a) and 23(b)(3) and make a final appointment of Plaintiff as the class representative and Class Counsel as class counsel.

VII. NOTICE TO THE SETTLEMENT CLASS SATISFIES THE REQUIREMENTS OF RULE 23 AND DUE PROCESS.

Rule 23 requires that notice of a settlement be "the best notice that is practicable under the circumstances, including individual notice to all members who can be identified through reasonable effort," Fed. R. Civ. P. 23(c)(2)(B), and that it be directed to class members in a "reasonable manner." Fed. R. Civ. P. 23(e)(1)(B). Notice of a settlement satisfies Rule 23(e) and due process where it is "reasonably calculated, under all the circumstances, to apprise interested parties of the pendency of the action and afford them an opportunity to present their objections." *In re NFL*, 821 F.3d at 435 (citation omitted). The Third Circuit has also explained that "[g]enerally speaking, the notice should contain sufficient information to enable class members to make informed decisions on whether they should take steps to protect their rights, including objecting to the settlement or, when relevant, opting out of the class." *In re Baby Prod. Antitrust Litig.*, 708 F.3d 163, 180 (3d Cir. 2013).

Here, the Notice and the method used to disseminate the Notice to potential Settlement Class Members satisfy these standards. The Court-approved Notice amply informed Settlement Class Members of, among other things: (i) the pendency of the Action; (ii) the nature of the Action and the Settlement Class's claims; (iii) the essential terms of the Settlement; (iv) the proposed manner of distribution of the Net Settlement Fund; (v) Settlement Class Members' rights to request exclusion from the Settlement Class or object to the Settlement, the manner of distribution, or the requested attorneys' fees or expenses; (vi) the binding effect of a judgment on Settlement Class Members; and (vii) information regarding Class Counsel's motion for an award of attorneys' fees and expenses. The Notice also sets forth the procedures and deadlines for: (i) requesting exclusion from the Settlement Class and (ii) objecting to any aspect of the Settlement, including the proposed distribution plan and the request for attorneys' fees and expenses.

Settlement Class Members were mailed and/or emailed notices after a thorough address validation process. *See* RG/2 Decl., ¶¶ 7-8, 12-13. Emails were sent to all Settlement Class Members, with a majority confirmed as delivered. *Id*. The Settlement Class Members whose email was not delivered or bounced back, received Notice via first-class mail (with the exception of 2 Settlement Class Members). *See* RG/2 Decl., ¶ 16. In total, approximately 99.9% of the Settlement Class received notice of the proposed Settlement.

Additionally, a settlement-specific website was created where key settlement documents were posted, including the Long Form Notice. *See* RG/2 Decl., ¶ 9. Settlement Class Members had until October 2, 2025, to object to the Settlement or request exclusion from the Settlement Class. To date, there have been no objections to the settlement, and only one request for exclusion. RG/2 Decl., ¶¶ 14-15.

Notice programs, such as the one deployed by Class Counsel, have been approved as adequate under the Due Process Clause and Rule 23. *See In re CertainTeed*, 269 F.R.D. 468. And, in other COVID-19 refund actions against other universities, substantially similar methods of notice have been preliminarily approved. *See, e.g.*, *Wright v. S. New Hampshire Univ.*, No. 20-cv-609-LM, 2021 WL 1617145, at *2 (D.N.H. Apr. 26, 2021); *see also Rosado v. Barry Univ., Inc.*, No. 1:20-cv-21813-JEM, Order, (S.D.N.Y. Mar. 30, 2021). For these reasons, Notice satisfied the requirements of Rule 23 and due process.

CONCLUSION

The $518,710 Settlement obtained by Plaintiff and Class Counsel represents an excellent recovery for the Settlement Class, particularly in light of the significant litigation risks the Settlement Class faces, including the very real risk of the Settlement Class receiving no recovery at all. For the foregoing reason, Plaintiff respectfully requests that the Court finally approve the proposed Settlement and the proposed manner of distribution of the Net Settlement Fund as fair, reasonable, and adequate.

Dated: October 17, 2025

Respectfully submitted,

/s/ Nicholas A. Colella
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**Pro Hac Vice*

Attorneys for Plaintiff and the Settlement Class

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF PENNSYLVANIA

JEFFREY LOGAN KEENHOL, on behalf of himself and all others similarly situated, Plaintiff, v. DESALES UNIVERSITY, Defendant.	Case No. 2:24-cv-01083-JLS

DECLARATION OF NICHOLAS A. COLELLA
IN SUPPORT OF PLAINTIFF'S MOTION FOR
FINAL APPROVAL OF CLASS ACTION SETTLEMENT

I, Nicholas A. Colella, declare as follows:

1. I am a partner with the law firm of Lynch Carpenter, LLP and am counsel of record for Plaintiff Jeffrey Logan Keenhol ("Plaintiff") and the conditionally-certified Settlement Class, along with Michael Tompkins and Anthony Alesandro of Leeds Brown Law, P.C., in the above captioned matter against Defendant DeSales University ("Defendant" or "DeSales"). I am personally involved in the prosecution of this matter.

2. The team of Lynch Carpenter and Leeds Brown attorneys involved in the resolution of this matter possess extensive experience litigating complex class actions.

3. I have been involved in this Action from the filing of the Complaint through its resolution.

4. I make this Declaration in support of Plaintiff's Motion for Final Approval of Class Action Settlement ("Plaintiff's Motion"), which seeks final approval of the Settlement Agreement.

5. The matters set forth herein are stated with my personal knowledge.

6. Class Counsel, on behalf of Plaintiff and the proposed Settlement Class, have negotiated a settlement of all claims against Defendant for its transition to online only learning following the Covid-19 pandemic in the Spring 2020 semester.

7. I am submitting this declaration to put before the Court certain documents and facts supporting final approval of the Settlement and demonstrating that the requirements of Federal Rule of Civil Procedure 23 are satisfied for purposes of finally certifying the Settlement Class and that the proposed Settlement is fair, reasonable, and adequate.

8. In my view, the Settlement represents an excellent result that will provide significant benefits to the Settlement Class Members while removing the risk and delay associated with further litigation.

9. The Settlement Amount consisting of cash in the amount of $518,710, less Court-approved attorneys' fees and expenses, and costs of settlement administration shall be for the benefit of the Settlement Class Members. In addition, DeSales represents and warrants that it is no longer pursuing outstanding student debt owed from the Spring 2020 semester, such that class members with outstanding balances will not be pursued or subject to collections of any prior debt.

10. I recommend the proposed Settlement is an excellent result in light of the factual and legal risks of continued litigation. In recommending the Settlement as fair, reasonable, and adequate, Class Counsel has considered, among other things, the events underlying Plaintiff's claims and the possible defenses to those claims, as well as the information gleaned by the extensive exchange of information conducted by the Parties in this case, and DeSales's publicly available financial information.

11. All of this information provided us with a thorough understanding of the strengths and weaknesses of Plaintiff's claims and the risks associated with further litigation.

12. In short, Class Counsel believes that this Settlement is fair and reasonable because it provides a substantial monetary recovery weighed against the risks of proceeding with litigation.

13. There have been no material changes in circumstances which impact Plaintiff's assessment of the suitability of the proposed classes for certification since the Court granted preliminary approval.

CLASS COUNSEL BELIEVE THAT THE PROPOSED SETTLEMENT SATISFIES THE APPLICABLE FACTORS CONSIDERED BY COURTS IN THE THIRD CIRCUIT WHEN REVIEWING PROPOSED CLASS ACTION SETTLEMENTS

14. Before agreeing to the proposed Settlement, Class Counsel assessed the merits using various factors typically used by counsel in this type of case including the factors used by courts in the Third Circuit to assess proposed class action settlements.

15. Class Counsel believes that the proposed Settlement is fair, reasonable, and adequate when the applicable factors are considered. Those factors include: (1) the complexity, expense, and likely duration of the litigation; (2) the reaction of the class to the settlement; (3) the stage of the proceedings and the amount of discovery completed; (4) the risks of establishing liability; (5) the risks of establishing damages; (6) the risks of maintaining the class action through the trial; (7) the ability of the defendants to withstand a greater judgment; (8) the range of reasonableness of the settlement fund in light of the best possible recovery; and (9) the range of reasonableness of the settlement fund to a possible recovery in light of all the attendant risks of litigation.

16. The complexity, expense, and likely duration of the litigation, justify final approval of the Settlement.

17. There have been no objections to the settlement and only one request to opt-out of the Settlement. Further, Plaintiff supports the proposed Settlement.

18. The stage of the proceedings and the amount of discovery completed via the mediation process justifies approval of the Settlement. After Defendant filed its Answer, and after the parties exchanged extensive information through the mediation process, the Parties engaged in a mediation session before Hon. Thomas J. Rueter (Ret.). With the help of Judge Rueter, the Parties were able to reach an agreement in principle during the mediation.

19. The risks of establishing liability and damages also counsel in favor of approval of the Settlement. Defendant vigorously contests liability in this Action, would almost certainly have contested class certification, and would have affirmatively moved for summary judgment. Thus, certification, liability, and damages would have remained highly contested issues had the settlement not been reached by the Parties.

20. The risks of maintaining the class action through trial justifies approval of the Settlement as well. As noted above, Defendant likely would have contested certification of the Settlement Class and damages on a class-wide basis. The risks associated with maintaining a certified class therefore support Settlement.

21. The range of reasonableness of the settlement fund in light of the best possible recovery and all the attendant risks of litigation strongly favors approval of the Settlement. Here, the Settlement provides for each Settlement Class Member to receive real monetary relief.

22. The Settlement Fund allows for a *pro rata* distribution to each student who paid tuition and/or fees in exchange for in-person and on-campus educational experiences, as alleged by Plaintiff and the Settlement Class Members.

23. Each individual share of the Net Settlement Fund will be a refund for tuition and/or fees paid in the Spring 2020 semester, and will be distributed *pro rata* based on the ratio of (a) the total amount of Spring 2020 Tuition and Fees assessed to Potential Settlement Class Members

enrolled at DeSales during the Spring 2020 semester to (b) the total amount of Spring 2020 Tuition and Fees assessed to each individual Settlement Class Member enrolled at DeSales during the Spring 2020 semester, less financial aid provided by DeSales, less any outstanding financial obligation the student owed to DeSales for the Spring 2020 semester, and less any refunds of Tuition and/or Fees already distributed related to Spring 2020 semester. To the extent the distribution formula results in an individual payment amount of less than $25, the payment amount will be adjusted upwards so that no Settlement Class Member shall receive less than $25. In addition to the cash payment set forth above, DeSales represents and warrants that it is no longer pursuing outstanding student debt owed from the Spring 2020 semester, such that class members with outstanding balances will not be pursued or subject to collections of any prior debt.

24. Class Counsel is aware of no evidence of fraud or collusion behind the Settlement. Instead, this Settlement was the product of extensive negotiations between experienced counsel under the supervision of respected mediator Judge Rueter. The final parameters of the proposed Settlement were negotiated amongst counsel at arm's length with the assistance of this mediation.

25. Class Counsel have developed a comprehensive understanding of the merits of the case through our work on the Action. In our view, when we agreed to the proposed Settlement, we had sufficient information about the strengths and weaknesses of the claims and defenses, as well as Defendant's financial condition, to make a reasoned judgment about the desirability of settling the case according to the terms proposed.

26. In Class Counsel's view, the stage of litigation and amount of discovery weigh in favor of final approval of the Settlement.

CONCLUSION

Plaintiff and Class Counsel respectfully submit that the Settlement is an excellent result for the Settlement Class in this case. Class Counsel recommends that the Settlement is fair, reasonable, and adequate, and requests that this Court grant final approval to the Settlement Agreement and approve dissemination of the Settlement Amount.

I declare under penalty of perjury that the foregoing is true and correct.

Executed on October 17, 2025
in Pittsburgh, Pennsylvania.

/s/ Nicholas A. Colella
Nicholas A. Colella

IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF PENNSYLVANIA

JEFFREY LOGAN KEENHOL, individually and on behalf of all others similarly situated, Plaintiff, v. DESALES UNIVERSITY, Defendant.	Case Action No. 2:24-cv-01083-JLS

DECLARATION OF MELISSA BALDWIN
<u>REGARDING NOTICE ADMINISTRATION</u>

1. My name is Melissa Baldwin, and I am over the age of eighteen (18) years. I make this declaration under the penalty of perjury, free and voluntarily, under no coercion, threat, or intimidation, and without promise of benefit or reward, based on my own personal knowledge. If called to testify, I could and would testify consistent with the matters stated herein.

2. I am the Director of Claims Administration for RG/2 Claims Administration LLC ("RG/2 Claims"), whose address is 30 South 17th Street, Philadelphia, PA 19103, the independent third-party settlement administrator retained as Claims Administrator to handle various settlement administration activities in the above-referenced matter, including, but not limited to, mailing of settlement notification packages to Class Members, emailing settlement notification to Class Members, claimant correspondence, and distribution.

3. RG/2 Claims is a full-service class action settlement administrator offering notice, claims processing, allocation, distribution, tax reporting, and class action settlement consulting services. RG/2 Claims' experience includes the provision of notice and administration services for settlements arising from antitrust, data security breach, consumer, civil rights, employment, negligent disclosure, and securities fraud allegations. Since 2000,

RG/2 Claims has administered and distributed in excess of $2 billion in class action settlement proceeds.

4. I have been actively involved and responsible for handling the administration of the settlement of the above-referenced matter.

5. RG/2 Claims was retained to, among other tasks, a) prepare, print and mail CAFA Notice; b) prepare, print, mail and email Notices to Settlement Class Members; c) establish and maintain the Settlement Website; d) prepare activity reports; e) handle inquiries from and correspondence to Settlement Class Members; f) re-mail Notices; g) skip-trace undeliverable addresses; h) receive and track Opt-Out requests and Objections; i) issue the Settlement Benefit to each Settlement Class Member; and j) conduct such other tasks as the Parties mutually agree or the Court orders RG/2 Claims to perform.

6. RG/2 Claims provided notice of the proposed Settlement (as outlined in the Settlement Agreement) pursuant to CAFA (the "CAFA Notice"). On May 19, 2025, RG/2 Claims caused to be served by Federal Express, Certified Return Receipt Requested First-Class mail, or electronic mail where applicable, the CAFA Notice, and the documents required under 28 U.S.C. § 1715(b)(1)-(8) to the United States Attorney General and 30 State Attorney Generals where the Settlement Class Members resided. A copy of the Notice of Proposed Settlement, excluding its exhibits, is attached hereto as **Exhibit A**.

7. On July 3, 2025, RG/2 Claims received an electronic file containing the names, last known email and postal addresses belonging to all Potential Settlement Class Members. In order to provide the best notice practicable and locate the most recent addresses for Potential Settlement Class Members, RG/2 Claims processed the Class List names and addresses received through the United States Postal Service's ("USPS") National Change of Address database ("NCOA") and updated the data with corrected information. It was determined that there were 1,889 Potential Settlement Class Members.

8. On July 18, 2025, RG/2 Claims caused to be served via email to the Potential Settlement Class Members, the Short Form Notice of Proposed Class Action Settlement ("Short Form Notice"). Of the 1,889 emailed Short Form Notices, 1,356 were delivered successfully. RG/2 Claims caused to be served via First Class mail and Air Mail, the Short Form Notice, to 533 Potential Settlement Class Members for whom emails were either invalid, unsuccessful or not provided. A true and correct copy of the Short Form Notice is attached hereto as **Exhibit B**.

9. On or about July 18, 2025, RG/2 Claims made available the Settlement Website, www.DeSalesCovidSettlement.com. The website includes the following:

a. The "Homepage" contains a brief summary of the settlement and advises Settlement Class members of their rights under the Settlement. A copy of the Homepage is attached hereto as **Exhibit C**;

b. The "Class Notice" page contains a pdf copy of the Long Form Notice;

c. The "Submit an Election Form" page contains the form that Settlement Class Members may submit electronically to designate their preferred method for receiving the funds, including physical check, Venmo, or PayPal and/or change their mailing address;

d. The "Important Documents" page contains: the Motion for Preliminary Approval; Brief in Support of Preliminary Approval; Settlement Agreement and Release; Preliminary Approval Order; Plaintiff's Motion for Award of Attorneys' Fees, Costs, and Case Contribution Awards to Settlement Class Representatives; and Plaintiffs' Memorandum in Support of Motion for Award of Attorneys' Fees, Costs and Case Contribution Awards to Settlement Class Representatives; and

e. The "Contact" page contains the contact information of the Settlement Administrator and Class Counsel.

10. RG/2 Claims also made available a toll-free phone number at (866) 742-4955 for Class members to speak with a live operator or leave a voicemail message requesting a returned call.

11. RG/2 Claims also made available Post Office Box 59479 in Philadelphia, PA 19102-9479 to receive and process returned Notices, Opt-Outs, and Objections.

12. Subsequent to the Notice mailing, the Defendant identified additional Settlement Class Members and provided new class data. RG/2 Claims compared the new data to the initial data and determined that there were 282 new Settlement Class Members, but also determined that the initial data included 123 individuals that were not Settlement Class Members. The revised total number of Settlement Class Members was determined to be 2,048 individuals.

13. On September 3, 2025, the Short Form Notice was emailed to each of the 282 new Settlement Class Members, with revised Opt-Out/Objection deadlines. Of the 282 Notices, 27 were deemed undeliverable and mailed the postcard Short Form Notice.

14. The Short Form Notice informed Settlement Class Members of, among other things, their right to request exclusion from the Settlement. To date, RG/2 Claims has received one (1) Opt-Out request. A true and correct copy is attached hereto as **Exhibit D**.

15. The Short Form Notice also informed Class Members of their right to object to the Settlement. To date, RG/2 Claims has not received or been advised of any objections to the Settlement.

16. As of the Objection/Exclusion Deadline, the USPS returned 10 Notices as undeliverable. RG/2 Claims performed extensive skip-trace procedures for these undeliverable Notices and was able to locate updated addresses for 8 Settlement Class Members and RG/2 Claims promptly mailed a new Notice to those Settlement Class Members. A total of 2 Short Form Notices remain undeliverable.

17. Therefore, in total, direct notice successfully reached 2,046 of the 2,048 Potential Settlement Class Members, or approximately 99.90% of the Settlement Class.

18. As of October 10, 2025, RG/2 Claims has received 302 executed Election Forms.

I DECLARE UNDER PENALTY OF PERJURY UNDER THE LAWS OF THE UNITED STATES THAT TO THE BEST OF MY KNOWLEDGE THE FOREGOING IS TRUE AND CORRECT.

Executed on October 16, 2025 at Philadelphia, PA

Melissa Baldwin

Melissa Baldwin

EXHIBIT A

RG2
Claims
Administration LLC

May 19, 2025

Via Certified Mail

Dana Nessel, Esq.
Michigan Attorney General
P.O.Box 30212
525 W. Ottawa St.
Lansing, MI 48909

Re: *Jeffrey Logan Keenhol, on behalf of himself and all others similarly situated, v. DeSales University* No. 5:24-cv-01083-JLS
In the United States District Court, Eastern District of Pennsylvania
Notice of Proposed Settlement

To the Honorable Dana Nessel, Esq.:

Pursuant to the Class Action Fairness Act of 2005 (specifically 28 U.S.C.A. § 1715), Defendant, *DeSales University,* through its vendor, RG/2 Claims Administration LLC, hereby gives notice in the above-captioned matter (the "Action") of the following:

1. Pursuant to the requirements under the Class Action Fairness Act of 2005, copies of the following documents are contained on the CD-Rom included herein:

    a. Exhibit 1: Complaint- Class Action filed on March 13, 2024;

    b. Exhibit 2: Plaintiffs' Unopposed Motion to Preliminarily Approve Class Action Settlement, Certify the Class, Appoint Class Counsel, Approve Proposed Class Notice, And Schedule a Final Approval Hearing filed on May 9, 2025;

    c. Exhibit 3: Memorandum of Law in Support of Plaintiffs' Unopposed Motion to Preliminarily Approve Class Action Settlement, Certify the Class, Appoint Class Counsel, Approve Proposed Class Notice, and Schedule a Final Approval Hearing filed on May 9, 2025;

    d. Exhibit 4: Settlement Agreement and Release filed on May 9, 2025;

    e. Exhibit 5: [Proposed] Order Granting Plaintiffs' Unopposed Motion to Preliminarily Approve Class Action Settlement, Certify the Class, Appoint Class Counsel, Approve Proposed Class Notice, and Schedule a Final Approval Hearing filed on May 9, 2025;

f. Exhibit 6: Notice of Proposed Class Action Settlement filed on May 9, 2025;

g. Exhibit 7: Approximate Class Members Per State of Residency.

2. The Settlement Class is defined as:

"All students who satisfied all or part of their payment obligations to the University for Spring 2020 for tuition and/or Mandatory Fees (including the Student Activity Fee) and who were enrolled in at least one in-person, on-campus class, excluding the following: all students who had their tuition and fee obligations completely funded by DeSales University for the Spring 2020 semester; Defendant; Defendant's officers, directors, agents, trustees, parents, children, corporations, trustees, representatives, employees, principals, servants, partners, joint venturers, and/or entitles controlled by Defendant; and/or Defendant's heirs, successors, assigns, or other persons or entities related to or affiliated with Defendant and/or Defendant's officers."

3. It is not feasible to provide the anticipated gross settlement amount allocations at this time. The amounts recovered by each individual member may vary. Exhibit 7, on the enclosed CD-ROM, provides a table of the Approximate Class Members per State of Residency.

4. There are no other settlement or other agreements between class counsel and counsel for defendants pursuant to 28 U.S.C. § 1715(b)(5).

5. The Court has not yet entered a final judgment or notice of dismissal. Accordingly, no document is presently available pursuant to 28 U.S.C. § 1715(b)(6).

6. Finally, there are no relevant written judicial opinions pursuant to 28 U.S.C. § 1715(b)(8).

If you have questions about this notice, the lawsuit, or the enclosed materials, please contact RG/2 Claims Administration LLC at 215-979-1620.

Sincerely,

RG/2 Claims Administration LLC

EXHIBIT B

Subject: NOTICE OF PROPOSED CLASS ACTION SETTLEMENT

PLEASE READ THIS NOTICE CAREFULLY. If you were a student enrolled at DeSales University ("DeSales" or the "University") during the Spring 2020 semester, and paid all or part of the tuition and/or mandatory fees to DeSales for the Spring 2020 semester, you may be eligible to receive a payment as part of a proposed settlement of *Keenhol v. DeSales University*, Case No. 5:24-cv-01083 (E.D. Pa.) (the "Action").

In this Action, Plaintiff alleged DeSales breached a contract when it transitioned to remote learning in response to the COVID-19 pandemic. Plaintiff also alleged that DeSales's shift to remote learning gave rise to a claim of unjust enrichment. Plaintiff sought a refund of a portion of the tuition and mandatory fees for the Spring 2020 semester. DeSales denies all allegations of wrongdoing, and there has been no finding of liability in any court. However, considering the interest of both DeSales and its students in prompt resolution of the matter, DeSales and Plaintiff have agreed that DeSales will pay $518,710, and DeSales represents and warrants that it is no longer pursuing outstanding student debt owed from the Spring 2020 semester, such that class members with outstanding balances will not be pursued or subject to collections of any prior debt.

Am I a Class Member? If you were a student enrolled at DeSales during the Spring 2020 semester; paid all or part of the tuition and/or mandatory fees for the Spring 2020 semester; and were enrolled in at least one class that was meeting in person and on campus at the beginning of the Spring 2020 semester; then **you are part of the proposed settlement class (a "Settlement Class Member"). If you are a Settlement Class Member, you do not have to do anything to participate in and receive the benefits of the proposed Settlement.**

How Do I Get a Payment? Your payment will be sent automatically by first class U.S. Mail to your last known mailing address on file with the DeSales. Class Members will also have the option to visit the Settlement Website at **www.DeSalesCovidSettlement.com** to choose one of the following selections: (a) provide an updated address for sending a check; or (b) elect to receive the Settlement Benefit by Venmo or PayPal instead of a paper check. This action must be taken no later than forty-five (45) days after the Effective Date, as defined in the proposed Settlement. That date will also be posted on the Settlement Website when it is known, but it will be some time after the Final Approval Hearing, currently scheduled for **SEPTEMBER 12, 2025**. To elect how you would like to receive your Settlement Benefit or update your address visit **www.DeSalesCovidSettlement.com** and complete the Election Form using the Class Member code below.

Class Member Code: 123-ABC-DEFG

By participating in the proposed Settlement, you release your right to bring any claim covered by the proposed Settlement, including bringing any claim related to DeSales's transition to remote learning in the Spring 2020 semester, or joining any other action against DeSales related to DeSales's transition to remote learning in the Spring 2020 semester.

<u>What Are My Other Options?</u> If you do not want to participate in this proposed Settlement—meaning you do not want to receive the Settlement Benefit, and you do not want to be bound by any judgment entered in this case—you may exclude yourself by mailing a signed opt-out request to the Settlement Administrator, which must be postmarked no later than **SEPTEMBER 1, 2025**. Be aware that the statute of limitations may impact your ability to file a lawsuit. If you instead want to object to this proposed Settlement because you think it is not fair, adequate, or reasonable, you may submit an objection, which also must be postmarked no later than **SEPTEMBER 1, 2025**. Please follow the detailed instructions outlined in the Long Form Notice and the Settlement Agreement, which can both be found at **www.DeSalesCovidSettlement.com**, to properly opt-out from, or object to, the proposed Settlement.

<u>What Happens Next?</u> The Court has preliminarily approved the proposed Settlement, but the distribution of payments will occur only if the Court grants final approval of the proposed Settlement. The Final Approval Hearing in this case is scheduled for **SEPTEMBER 12, 2025**. At that hearing, the Court will consider whether to grant final approval of the proposed Settlement, and whether to approve payment from the Settlement Fund of Class Counsel's requested attorneys' fees, which will not exceed thirty-three and one-third percent of the Settlement Fund and will be posted on the Settlement Website after **AUGUST 18, 2025**, and reimbursement for litigation costs.

<u>You are encouraged to review the Long Form Notice</u>. To review the Long Form Notice, review other important documents, including the Settlement Agreement, and obtain more information about the proposed Settlement, please visit www.DeSalesCovidSettlement.com.

If you have any questions, you can contact Class Counsel: Nicholas A. Colella at Lynch Carpenter, LLP, (412) 322-9243, or Anthony M. Alesandro at Leeds Brown Law, P.C., (516) 873-9550.

You can also contact the Settlement Administrator by calling toll-free 1-866-742-4955, or by emailing info@rg2claims.com.

EXHIBIT C

NOTICE OF PROPOSED SETTLEMENT OF CLASS ACTION LAWSUIT

Keenhol v. DeSales University, Case No. 5:24-cv-01083 (E.D. Pa.)

If you were a student enrolled at DeSales University ("DeSales") during the Spring 2020 semester; paid all or part of the tuition and/or mandatory fees for the Spring 2020 semester; and were enrolled for the Spring 2020 semester in at least one class that was meeting in person and on campus at the beginning of the Spring 2020 semester, you are part of the proposed settlement class (a "Settlement Class Member") affected by this lawsuit.

If you are a Settlement Class Member, you do not have to do anything to participate in and receive the benefits of the proposed Settlement.

Case Update: September 2, 2025

The Final Approval Hearing for this matter has been rescheduled from Friday, September 12, 2025 to Tuesday, October 28, 2025.
You can find a copy of the Order under the Important Documents tab.

In this Action, Plaintiff alleged DeSales breached a contract when it transitioned to remote learning in response to the COVID-19 pandemic. Plaintiff also alleged that DeSales's shift to remote learning gave rise to a claim of unjust enrichment. Plaintiff sought a refund of a portion of the tuition and mandatory fees for the Spring 2020 semester. DeSales denies all allegations of wrongdoing and there has been no finding of liability in any court. However, considering the interests of both DeSales and its students in prompt resolution of the matter, DeSales and Plaintiff have agreed that DeSales will pay $518,710 into a Settlement Fund to resolve the Action.

WHAT IS THIS LAWSUIT ABOUT?

The class action being settled is captioned *Keenhol v. DeSales University,* Case No. 5:24-cv-01083 (E.D. Pa.). This case is a putative class action, meaning that the Settlement Class Representative—Jeffrey Logan Keenhol—brought this action as an individual acting on behalf of a putative class of students who paid tuition and/or mandatory fees for the Spring 2020 semester at DeSales. The

Settlement Class Representative alleged claims for breach of contract and unjust enrichment. With the help of a mediator, the Parties came to the proposed Settlement.

AM I A CLASS MEMBER?

If you were a student enrolled at DeSales during the Spring 2020 semester; paid all or part of the tuition and/or mandatory fees for the Spring 2020 semester; and were enrolled in at least one class that was meeting in person and on campus at the beginning of the Spring 2020 semester; then **you are part of the proposed settlement class (a "Settlement Class Member"). If you are a Settlement Class Member, you do not have to do anything to participate in and receive the benefits of the proposed Settlement.**

HOW DO I GET A PAYMENT?

Your payment will be sent automatically by first class U.S. Mail to your last known mailing address on file with the DeSales. Class Members will also have the option to submit an Election Form and choose one of the following selections: (a) provide an updated address for sending a check; or (b) elect to receive the Settlement Benefit by Venmo or PayPal instead of a paper check. **To elect how you would like to receive your Settlement Benefit or update your address, click the Election Form tab above and complete the Election Form using the Class Member code provided in your Notice.** This action must be taken no later than forty-five (45) days after the Effective Date, as defined in the proposed Settlement. That date will also be posted on this website when it is known, but it will be some time after the Final Approval Hearing, currently scheduled for **SEPTEMBER 12, 2025**.

By participating in the proposed Settlement, you release your right to bring any claim covered by the proposed Settlement, including bringing any claim related to DeSales's transition to remote learning in the Spring 2020 semester, or joining any other action against DeSales related to DeSales's transition to remote learning in the Spring 2020 semester.

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WHAT ARE MY OTHER OPTIONS?

If you do not want to participate in this proposed Settlement— meaning you do not want to receive the Settlement Benefit, and you do not want to be bound by any judgment entered in this case—you may exclude yourself by mailing a signed opt-out request to the Settlement Administrator, which must be postmarked no later than **SEPTEMBER 1, 2025**. Be aware that the statute of limitations may impact your ability to file a lawsuit. If you instead want to object to this proposed Settlement because you think it is not fair, adequate, or reasonable, you may submit an objection, which also must be postmarked no later than **SEPTEMBER 1, 2025**.

Please follow the detailed instructions outlined in the Long Form Notice (pdf/DeSales_Long_Form_Notice_final.pdf) and the Settlement Agreement (pdf/Desales_Settlement_Agreement.pdf) to properly opt-out from, or object to, the proposed Settlement.

WHAT HAPPENS NEXT?

The Court has preliminarily approved the proposed Settlement, but the distribution of payments will occur only if the Court grants final approval of the proposed Settlement. The Final Approval Hearing in this case is scheduled for **SEPTEMBER 12, 2025**. At that hearing, the Court will consider whether to grant final approval of the proposed Settlement, and whether to approve payment from the Settlement Fund of Class Counsel's requested attorneys' fees, which will not exceed thirty-three and one-third percent of the Settlement Fund and will be posted on this website after **AUGUST 18, 2025**, and reimbursement for litigation costs

YOU ARE ENCOURAGED TO REVIEW THE LONG FORM NOTICE

To review the Long Form Notice, review other important documents, including the Settlement Agreement, and obtain more information about the proposed Settlement, please click on the appropriate tabs at the top of this page.

PLEASE DO NOT CONTACT THE COURT OR DESALES CONCERNING THIS NOTICE OR THE PROPOSED SETTLEMENT.

EXHIBIT D

AUG 2 8 2025

Shadi Jarjous

7313 Cedar Rd Macungie, PA 18062

Sjmd1998@yahoo.com

Re: *Keenhol v. DeSales University, Case No. 5:24-cv01083 (E.D. PA.)*

To Whom It May Concern,

I am writing to request to opt out of the proposed settlement for *Keenhol v. DeSales University, Case No. 5:24-cv01083 (E.D. PA.)*.

Sincerely,

Shadi Jarjous

Shadi Jarjous
7313 Cedar Rd
Macungie, PA 18062

LEHIGH VALLEY PA 180
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1775 ★ 2025
FOREVER / USA

Desales Civil Settlement Administrator
c/o RG/2 Claims Administration, LLC
P.O. Box 59479
Philadelphia, PA 19102-9479

19102-947979