

**IN THE UNITED STATES DISTRICT COURT  
FOR THE WESTERN DISTRICT OF PENNSYLVANIA**

RAFAEL FIGUEROA, KAHLIL  
CABBLE,  
TY' ANTHONY SCOTT, and RYAN  
PETTY *on behalf of themselves and all  
others similarly  
situated,*

*Plaintiffs,*

v.

POINT PARK UNIVERSITY,

*Defendant.*

Case No. 2:20-CV-01484-LPL

**DECLARATION OF MARK COWEN REGARDING  
CONFIRMATION OF NOTICE TO THE CLASS**

I, Mark Cowen, hereby declare as follows:

1. I am a Project Manager at A.B. Data, Ltd.'s Class Action Administration Division ("A.B. Data"), whose Corporate Office is located in Milwaukee, Wisconsin. This declaration ("Declaration") is based upon my personal knowledge, and that of A.B. Data staff members, and if called as a witness, I could and would testify competently thereto.

2. I submit this Declaration in connection with the class action notice administration proceedings related to the above-captioned Action (the "Action").

3. This Declaration details the steps that were taken to implement notice of the settlement as required by the Court's "Preliminary Approval Order" filed on July 25, 2023. Those steps included: i) emailing the Email Notice of Class Action

Settlement to Class Members where an email address was available; ii) mailing the Court-approved Short-Form Notice to Class Members; iii) establishing a toll-free telephone number and case-specific website to address potential Class Member inquiries and posting the Long-Form Notice to the website, along with other materials; and iv) responding to telephone calls and emails from Class Members.

#### **DISSEMINATION OF NOTICE**

4. On August 10, 2023, A.B. Data received from Defense Counsel electronic data files containing the Student ID's, names, mailing addresses, and email addresses for 2,815 Class Member records. All Class Member information that was provided to A.B. Data has been stored in a secure environment with controlled access.

#### **ELECTRONIC MAILING OF THE NOTICE**

5. A.B. Data prepared and sent an electronic mailing of the Email Notice to Class Members who had an email address on file. To best provide Notice to the Class, Email Notice was sent to all unique email addresses on a Class Member record. Prior to sending the Email Notice, A.B. Data conducted an email validation exercise to remove invalid and duplicate email addresses. This helps ensure the overall deliverability of the valid email addresses. A.B. Data initially determined there were 5,277 distinct email addresses which represented 2,799 Class Member records.

6. Pursuant to the Preliminary Approval Order, A.B. Data sent the Email Notice on September 8, 2023, with 2,695 Class Member records confirmed as delivered, which is a 96.28% delivery rate. A true and correct copy of the Email Notice is attached as Exhibit A.

#### **MAILING OF SHORT-FORM NOTICE**

7. For those Class Member records where there was not an email address available, or the email address(es) were invalid, they were sent a Short-Form Notice via First-Class Mail. In total, there were 18 Notices mailed via First-Class Mail because an email address was not available, or the email address(es) were invalid, for that Class Member record.

8. Pursuant to the Preliminary Approval Order, on September 8, 2023, Summary Notice was sent by USPS First-Class Mail to the 18 Class Members who did not have an email address on file, or the email address(es) were invalid. A true and correct copy of the Summary Notice is attached as Exhibit B.

9. A total of 104 Class Member records had either an email address that was not delivered or the email bounced. These Class Members were mailed a Summary Notice on October 4, 2023.

10. As of the date of this Declaration, A.B. Data has had 4 Notices to Class Members returned as undeliverable by the USPS.

#### **OBJECTIONS**

11. As of the date of this Declaration, A.B. Data has not received any written objections or comments related to the Settlement.

#### **OPT OUTS**

12. As of the date of this Declaration, A.B. Data has not received any requests to opt out of the Settlement.

I declare under penalty of perjury that the foregoing is true and correct.  
Executed this 27th day of November 2023 in Apple Valley, MN.

  
\_\_\_\_\_  
Mark Cowen

# EXHIBIT A

**From:** [help@mg.abdataclassactionmail.com](mailto:help@mg.abdataclassactionmail.com) on behalf of [Point Park University Covid Class Action Settlement](#)  
**To:**  
**Subject:** Notice of Proposed Class Action Settlement  
**Date:** Friday, September 8, 2023 11:13:43 AM

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EXTERNAL SENDER

Notice ID: 276431136

PLEASE READ THIS NOTICE CAREFULLY. If you were enrolled in any program at Point Park University (“PPU” or “University”) after March 12, 2020, and were assessed tuition and/or fees by PPU for the Spring 2020 semester, you may be eligible to receive a payment as part of a proposed settlement of *Figueroa, et al. v. Point Park University*, Civil Action No. 2:20-cv-01484 (W.D. Pa.) (the “Action”).

In this Action, Plaintiffs alleged PPU breached a contract when it transitioned to remote learning in response to the COVID-19 pandemic. Plaintiffs also alleged that PPU’s shift to remote learning gave rise to claims of unjust enrichment and conversion. Plaintiffs sought a refund of a portion of their tuition and fees for the Spring 2020 semester. The Court dismissed the conversion claim. The remaining claims in this Action are Plaintiffs’ breach of contract and unjust enrichment claim. PPU denies all allegations of wrongdoing and there has been no finding of liability in any court. However, considering the interest of both PPU and its students in prompt resolution of the matter, PPU and Plaintiffs have agreed that PPU will pay \$1,250,000 into a Settlement Fund to resolve the Action.

**Am I a Class Member?** If you were enrolled at PPU after March 12, 2020, were assessed tuition and/or fees for the Spring 2020 semester, and you were not enrolled for the Spring 2020 semester solely in classes that, at the beginning of the Spring 2020 semester, were delivered as an online-only program, 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 University Registrar. Settlement Class Members will also have the option to visit the Settlement Website at [www.ppsettlement.com](http://www.ppsettlement.com) to choose one or more of the following selections: (a) provide an updated address for sending a check; (b) elect to receive the Settlement Benefit by Venmo or PayPal instead of a paper check; or (c) elect to have the Settlement Benefit applied to your PPU student account. These actions 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 December 4, 2023.

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 PPU’s transition to remote learning in the Spring 2020 semester, or joining any other action against PPU related to PPU’s transition to remote learning in the Spring 2020 semester.

**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 October 23, 2023. 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 October 23, 2023. Please follow the detailed instructions outlined in the Long-Form Notice and the Settlement Agreement, which can both be found at [www.ppsettlement.com](http://www.ppsettlement.com), 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 December 4, 2023. 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: (1) awards to the Settlement Class Representative for their service in this litigation; and (2) Class Counsel's requested attorneys' fees, which will not exceed thirty-five percent of the Settlement Fund and will be posted on the Settlement Website after October 9, 2023, 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 visit [www.ppsettlement.com](http://www.ppsettlement.com).

If you have any questions, you can contact Class Counsel: Gary F. Lynch at Lynch Carpenter, LLP, (412) 322-9243.

You can also contact the Settlement Administrator by calling toll-free, 1-877-888-6613, or by emailing [info@PPSettlement.com](mailto:info@PPSettlement.com).

Point Park University Covid Settlement  
c/o A.B. Data, Ltd.  
P.O. Box 170500  
Milwaukee, WI 53217

If you'd like to unsubscribe [click here](#).

# EXHIBIT B

Point Park University Covid Settlement  
c/o A.B. Data, Ltd.  
P.O. Box 170500  
Milwaukee, WI 53217

**NOTICE OF PROPOSED CLASS ACTION SETTLEMENT**



[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]



## NOTICE OF PROPOSED CLASS ACTION SETTLEMENT

Notice ID: [REDACTED]

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