

## **NOTICE OF PROPOSED SETTLEMENT OF CLASS ACTION LAWSUIT**

*Figueroa, et al. v. Point Park University*, Civil Action No. 2:20-cv-01484 (W.D. Pa.)

**ATTENTION: ALL STUDENTS ENROLLED AT POINT PARK UNIVERSITY AFTER MARCH 12, 2020, WHO WERE ASSESSED TUITION AND/OR FEES FOR THE SPRING 2020 SEMESTER**

**The United States District Court for the Western District of Pennsylvania has authorized this notice. It is not a solicitation from a lawyer. You are not being sued. If you have received a notice of this lawsuit in the mail or by e-mail, you have been identified as a person who is or may be a member of the settlement class in this lawsuit, and the proposed settlement of this lawsuit, if approved, may affect your legal rights. You should read this notice carefully.**

**If you were enrolled as a student at Point Park University (“PPU” or “University”) 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 program, you are part of the proposed settlement class (a “Settlement Class Member”) affected by this lawsuit.**

The purpose of this notice is to inform you of a proposed Settlement relating to a class action lawsuit brought by Plaintiffs, students at PPU during the Spring 2020 semester, against PPU, on behalf of a putative class who paid tuition and/or fees for the Spring 2020 semester. The case is captioned *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.

The terms of the agreement are set forth in the proposed Settlement that must be approved by the United States District Court for the Western District of Pennsylvania. This notice includes information about the proposed Settlement, a final approval hearing scheduled by the Court, and the process for being heard by the Court.

**SUMMARY OF THE OPTIONS AND THE LEGAL EFFECT OF  
EACH OPTION FOR SETTLEMENT CLASS MEMBERS**

YOUR OPTIONS	INSTRUCTIONS	DUE DATE
<p style="text-align: center;"><b>DO NOTHING AND AUTOMATICALLY RECEIVE A PAYMENT</b></p>	<p>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, but are not required, to visit the Settlement Website at <a href="http://www.ppsettlement.com">www.ppsettlement.com</a> 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.</p>	<p>See Answer 7.</p>
<p style="text-align: center;"><b>EXCLUDE YOURSELF FROM THE PROPOSED SETTLEMENT</b></p>	<p>You can choose to “opt out” of the proposed Settlement. Opting out means that you choose not to participate in the proposed Settlement. It also means that you cannot object to the proposed Settlement (see below). If you opt out, you will not receive a payment and you will keep any individual claims you may have against PPU relating to the transition to remote learning in the Spring 2020 semester. For more detailed opt-out instructions, see Answer 11 below.</p>	<p>Postmarked no later than OCTOBER 23, 2023</p>
<p style="text-align: center;"><b>OBJECT TO THE PROPOSED SETTLEMENT</b></p>	<p>You can file an objection with the Court explaining why you believe the Court should reject the proposed Settlement. If your objection is overruled by the Court and the proposed Settlement is approved, then you would be included in the Settlement Class. If the Court agrees with your objection, then the proposed Settlement may not be approved. If you choose to object, you may not also opt out of the proposed Settlement, as only participating Settlement Class Members may object to a proposed Settlement. For more detailed objection instructions, see Answer 12 below.</p>	<p>Postmarked no later than OCTOBER 23, 2023</p>

These rights and options—and the deadlines to exercise them—along with the material terms of the proposed Settlement are explained further below in this notice.

## **BASIC INFORMATION**

### **1. What is this lawsuit about?**

The class action being settled is captioned *Figueroa, et al. v. Point Park University*, Civil Action No. 2:20-cv-01484 (W.D. Pa.). This case is a putative class action, meaning that the Settlement Class Representatives—Rafael Figueroa, Kahlil Cabble, Ty’Anthony Scott, and Ryan Petty—brought this action as individuals acting on behalf of a putative class of all people who paid tuition and/or fees for the Spring 2020 semester at PPU. The Settlement Class Representatives alleged claims for breach of contract, unjust enrichment, and conversion. On August 11, 2021, the Honorable Lisa P. Lenihan, Magistrate Judge for the U.S. District Court for the Western District of Pennsylvania, dismissed Plaintiffs’ conversion claim, and allowed Plaintiffs’ breach of contract claim and unjust enrichment claim to move forward. After this decision by the Court, class discovery, and the involvement of two mediators, the Parties came to the proposed Settlement.

### **2. Why did I receive notice of this lawsuit?**

If you received notice of this lawsuit, it is because PPU’s records indicate that you were enrolled at the University during the Spring 2020 semester and were assessed tuition and/or fees that are the subject of this Action. The Court directed that this notice be made available to all Potential Settlement Class Members because each member has a right to notice of the proposed Settlement and the options available to them before the Court decides whether to approve the proposed Settlement.

### **3. How do I know if I am part of the Settlement Class?**

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 program, then you potentially qualify as a Settlement Class Member.

### **4. Why did the Parties Settle?**

In any lawsuit, there are risks and potential benefits that come with litigating as compared to settling. It is the Settlement Class Representatives’ and their lawyers’ (“Class Counsel”) job to identify when a proposed Settlement offer is sufficient and justifies settling the case instead of continuing to litigate. In a class action, class counsel determines when to recommend settling to the class representatives. The class representatives then have a duty to act in the best interests of the class as a whole when deciding whether to accept this recommendation. In this case, it is the belief of the Settlement Class Representatives and Class Counsel that this proposed Settlement is in the best interest of all Settlement Class Members.

PPU denies the claims asserted and believes that its actions were proper and in accordance with the terms of its policies, agreements, and applicable law. PPU denies that its actions give rise to any claim by the Settlement Class Representatives or any Settlement Class Members. However, given the benefit the University and its students will receive from a negotiated settlement and prompt resolution of the case, PPU considers it desirable to resolve the Action.

**5. What must happen for the proposed Settlement to be approved?**

The Court must decide that the proposed Settlement is fair, reasonable, and adequate before it will approve the proposed Settlement. At this time, the Court has already reviewed and decided to grant preliminary approval of the proposed Settlement, after which notice was disseminated to Potential Settlement Class Members. The Court will make a final decision regarding the proposed Settlement at a Final Approval Hearing, which is currently scheduled for December 4, 2023.

**YOUR OPTIONS**

**6. What options do I have with respect to the proposed Settlement?**

If you are a Potential Settlement Class Member, you have three options with respect to this proposed Settlement: (1) do nothing and be eligible to participate in the proposed Settlement and receive the Settlement Benefit allocated to you according to the terms of the proposed Settlement; (2) opt out of the proposed Settlement; or (3) participate in the proposed Settlement, but object to it. Each of these options is described further below.

**7. What are the details and deadlines related to my options?**

- a. If you do nothing, and the proposed Settlement is approved by the Court, you will be eligible to participate in the proposed Settlement and to receive the Settlement Benefit allocated to you according to the terms of the proposed Settlement. 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, but are not required, 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.
- b. If you would like to opt out or object to the proposed Settlement, your request must be postmarked no later than October 23, 2023.

**8. How do I decide which option to choose?**

If you would prefer not to participate in the proposed Settlement, then you may want to consider opting out. If you opt out, you will not receive a payment and you will keep any individual claims you may have against PPU relating to the transition to remote learning in the Spring 2020 semester.

If you believe the proposed Settlement is unreasonable, unfair, or inadequate and that the Court should reject the proposed Settlement, you may want to consider objecting to the proposed Settlement. The Court will decide if your objection is valid. If the Court agrees, then the proposed Settlement may not be approved. If your objection (or any other objection) is overruled, and the proposed Settlement is approved, then you will still receive a payment under the proposed Settlement and you will be bound by the proposed Settlement. Note that if you do not object to the proposed Settlement, and the proposed Settlement is later approved, you cannot appeal that approval order.

**9. Do I have to do anything if I want to participate in the proposed Settlement?**

No If you do nothing, and the proposed Settlement is approved by the Court, you will be eligible to participate in the proposed Settlement and to receive the Settlement Benefit allocated to you according to the terms of the proposed Settlement. 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 (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.

**OPTING OUT OF THE PROPOSED SETTLEMENT**

**10. What happens if I opt out of the proposed Settlement?**

If you opt out of the proposed Settlement, you will preserve any claims you may have against PPU related to PPU’s transition to remote learning in the Spring 2020 semester. However, you will not be entitled to receive a payment from this proposed Settlement—assuming that the proposed Settlement is approved by the Court.

**11. How do I opt out of the proposed Settlement?**

To opt out of the proposed Settlement, you must send a written request to the Settlement Administrator at: Point Park University Covid Settlement, c/o A.B. Data Ltd., P.O. Box 170500, Milwaukee, WI 53217, which must:

- a. include a statement requesting to opt out of the Settlement Class;
- b. be personally signed by you;
- c. include your name, address, and either a telephone number or email address;
- d. include the caption for the Action: *Figueroa, et al. v. Point Park University*, Civil Action No. 2:20-cv-01484 (W.D. Pa.); and
- e. be postmarked no later than October 23, 2023.

A request to opt out of the proposed Settlement that does not meet the above requirements, or that is sent to an address other than that of the Settlement Administrator, will be invalid and the person sending the defective request will remain in the Settlement Class and, if the proposed Settlement is approved by the Court, will receive a payment, and will be bound by the proposed Settlement.

A request to opt out of the proposed Settlement must be done on an individual basis. A Potential Settlement Class Member cannot purport to opt others out of the proposed Settlement on a class or representative basis.

**OBJECTING TO THE PROPOSED SETTLEMENT**

**12. How do I object to the proposed Settlement?**

You can object to the proposed Settlement, or any part of it, so long as you do not opt out of the proposed Settlement, as only Settlement Class Members have the right to object to the proposed Settlement, including any attorneys’ fees sought by Class Counsel. To have your objection considered by the Court at the Final Approval Hearing, your objection must:

- a. include your name, address, and either a telephone number or email address; and state that you are a Settlement Class Member;
- b. be personally signed by you, the objecting Settlement Class Member;
- c. contain a statement that includes all objections, states whether each objection applies only to the objector, to a subset of the Settlement Class, or to the entire Settlement Class, and states the specific reasons for all objections, including any legal arguments and evidentiary support (including copies of any documents relied upon); and
- d. state whether you wish to speak at the Final Approval Hearing, and whether you are represented by counsel.

Your objection and any accompanying papers must be filed with the Clerk of Court. If you are represented by counsel, the objection must be filed through the Court’s electronic case filing (ECF) system. All objections must also be mailed at the same time to Class Counsel, PPU’s Counsel, and the Settlement Administrator at the addresses below. All objections must be postmarked no later than October 23, 2023.

<b>Clerk of Court</b>	<b>Settlement Administrator</b>	<b>Class Counsel</b>	<b>PPU’s Counsel</b>
Clerk of the Court United States District Court for the Western District of Pennsylvania Joseph F. Weis, Jr. U.S. Courthouse 700 Grant Street, Pittsburgh, PA 15219	Point Park University Covid Settlement c/o A.B. Data, Ltd. P.O. Box 170500 Milwaukee, WI 53217	<b>LYNCH CARPENTER, LLP</b> Attn: Gary F. Lynch 1133 Penn Avenue, 5th Floor Pittsburgh, PA 15222	<b>REED SMITH LLP</b> Attn: Jeffrey M. Weimer Reed Smith Centre, 225 Fifth Avenue Pittsburgh, PA 15222

**13. What happens if I object to the proposed Settlement?**

If you object to the proposed Settlement, the Court will consider your objection at the Final Approval Hearing. If the Court sustains your objection, or the objection of any other Settlement Class Member, the proposed Settlement may not be approved. If you object, but the Court overrules your objection and any other objections and approves the proposed Settlement, then you will be bound by the proposed Settlement, and you may appeal the approval order to the extent that it overrules your objection.

**14. What is the difference between objecting and opting out of the proposed Settlement?**

Objecting to the proposed Settlement is telling the Court that you do not believe the proposed Settlement is fair, reasonable, and adequate for the Settlement Class, and asking the Court to reject it. If you object to the proposed Settlement and the proposed Settlement is ultimately approved, then you are entitled to a payment and will release any claims related to PPU's transition to remote learning in the Spring 2020 semester. Opting out of the proposed Settlement, however, is telling the Court that you do not want to be a part of the proposed Settlement if it is approved, you do not want to receive a payment, and you will not release claims you might have against PPU that would otherwise have been released by participating in the proposed Settlement.

**15. Can I opt out and object to the proposed Settlement?**

No. To object to the proposed Settlement, you must participate in the proposed Settlement. Thus, you must choose between opting out or objecting to the proposed Settlement.

**THE PROPOSED SETTLEMENT PAYMENT**

**16. How much is this proposed Settlement?**

The Parties have agreed to a Settlement Fund of \$1,250,000.

As discussed in more detail below, attorneys' fees and costs, contribution awards for the Settlement Class Representatives, and administrative fees, including the costs paid to a third-party Settlement Administrator, will be paid out of the Settlement Fund. Thereafter, the remaining funds—the Net Settlement Fund—will be divided among all Settlement Class Members entitled to payments as outlined in the proposed Settlement and discussed further below in Answer 20.

**17. How much of the Settlement Fund will be used to pay for attorneys' fees and costs?**

Class Counsel will request that the Court approve attorneys' fees of not more than thirty-five percent of the Settlement Fund, and will request that Class Counsel be reimbursed for their out-of-pocket litigation costs incurred in litigating the Action. Class Counsel must submit their request to the Court by October 9, 2023, at which point the amount of the requested attorneys' fees, as well as Class Counsel's motion, will be published on the Settlement Website at



[www.ppsettlement.com](http://www.ppsettlement.com). The Court will then decide the amount of the attorneys' fees and costs based on a number of factors, including the risk associated with bringing the Action, the amount of time spent on the case, the magnitude and complexity of the Action, the quality of the work, and the requested fee in relation to the outcome of the Action.

**18. How much of the Settlement Fund will be used to pay the Settlement Class Representatives?**

Class Counsel will request that the Settlement Class Representatives, Rafael Figueroa, Kahlil Cabble, Ty'Anthony Scott, and Ryan Petty, be paid an award in the amount of no more than \$5,000 each, in recognition for their work in connection with this case. The award must be approved by the Court.

**19. How much of the Settlement Fund will be used to pay administrative expenses?**

A third-party Settlement Administrator was retained to provide notice and administer the payments to Settlement Class Members. The expenses of the Settlement Administrator are projected to not exceed \$50,000. In the event that such expenses exceed \$50,000, such additional amounts shall be paid only after approval by both Class Counsel and PPU's Counsel.

**20. How much will my payment be?**

The balance of the Settlement Fund after paying administrative expenses, attorneys' fees and costs, and awards to the Settlement Class Representatives, will be known as the Net Settlement Fund. The Net Settlement Fund will be allocated *pro rata* to each Settlement Class Member based on the ratio of (a) the total amount of Spring 2020 Tuition and Fees assessed to Potential Settlement Class Members enrolled at PPU during the Spring 2020 semester to (b) the total amount of Spring 2020 Tuition and Fees assessed to Potential Settlement Class Members enrolled at PPU during the Spring 2020 semester, less Financial Aid, unpaid balances related to the Spring 2020 term as reflected on the Settlement Class Member's account with PPU, and any refunds already distributed related to Spring 2020 semester.

**21. When will I receive my payment?**

The Court will hold a Final Approval Hearing on December 4, 2023, to consider whether the proposed Settlement should be approved. If the Court approves the proposed Settlement, then payments will be distributed within sixty (60) days of the date after which the proposed Settlement becomes final, as defined in the Settlement Agreement.

## THE FINAL APPROVAL HEARING

### **22. When and where will the Court decide whether to approve the proposed Settlement?**

The Court will hold a Final Approval Hearing on December 4, 2023, at the United States District Court for the Western District of Pennsylvania, Joseph F. Weis, Jr. U.S. Courthouse, 700 Grant Street, Pittsburgh, PA 15219. At this hearing, the Court will consider whether the proposed Settlement is fair, reasonable, and adequate. If objections have been properly submitted, the Court will consider them. The Court may also decide how much to award Class Counsel for attorneys' fees and litigation costs and the amount of the awards to the Settlement Class Representatives. The hearing will be public. The hearing may be virtual, in which case the instructions for viewing the hearing and participating will be posted on the Settlement Website at [www.ppsettlement.com](http://www.ppsettlement.com). The date and time of the Final Approval Hearing may change without further notice. Please check the Settlement Website for updates.

### **23. Do I have to come to the Final Approval Hearing?**

No. Class Counsel will answer any questions the Court may have. You may attend if you desire to do so. If you have properly submitted an objection, the Court will consider your objection regardless of whether you attend.

### **24. May I speak at the Final Approval Hearing?**

If you are a Settlement Class Member, you may ask the Court for permission to speak at the Final Approval Hearing. If you are objecting and would like to speak at the Final Approval Hearing, you must state in your objection, as described in Answer 12 above, that you wish to be heard at the Final Approval Hearing.

## THE LAWYERS REPRESENTING THE CLASS

### **25. Do I have a lawyer in this case?**

The Court has ordered that the law firm Lynch Carpenter, LLP will serve as Class Counsel and will represent all Settlement Class Members in this matter.

### **26. Do I have to pay the lawyers bringing this suit on behalf of the Settlement Class?**

No. Class Counsel will be paid directly from the Settlement Fund, subject to the Court's approval.

### **27. Who determines what the attorneys' fees will be?**

The Court will be asked to approve the amount of attorneys' fees at the Final Approval Hearing. Class Counsel will file an application for attorneys' fees, which shall not exceed thirty-five percent of the Settlement Fund, plus their out-of-pocket litigation costs, and will specify the amount being

sought. Class Counsel must submit its request to the Court by October 9, 2023, at which point the amount of the requested attorneys' fees, as well as Class Counsel's motion, will be published on the Settlement Website at [www.ppsettlement.com](http://www.ppsettlement.com). Settlement Class Members who would like to object to the amount of attorneys' fees sought by Class Counsel may do so by following the instructions described in Answer 12 above.

### **GETTING MORE INFORMATION**

This notice only summarizes the proposed Settlement. More details are contained in the Settlement Agreement, which can be viewed or obtained online at [www.ppsettlement.com](http://www.ppsettlement.com). In the event of any inconsistency between the Settlement Agreement and this notice, the Settlement Agreement will govern.

For additional information about the proposed Settlement, you should contact the Settlement Administrator as follows:

Point Park University Covid Settlement  
c/o A.B. Data, Ltd.  
P.O. Box 170500  
Milwaukee, WI 53217  
(877) 888-6613

For more information, you may also contact Class Counsel:

**LYNCH CARPENTER, LLP**  
Attn: Gary F. Lynch  
1133 Penn Avenue, 5th Floor  
Pittsburgh, PA 15222  
(412) 322-9243

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