

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

UNITED STATES OF AMERICA, <i>et al.</i> ,	)	
	)	
Plaintiffs,	)	Civil Action No. 2:07-cv-00461-NBF
	)	
v.	)	Hon. Nora Barry Fischer
	)	
EDUCATION MANAGEMENT	)	Electronically Filed Document
CORPORATION, <i>et al.</i> ,	)	
	)	
Defendants.	)	
	)	
	)	

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**PLAINTIFF, STATE OF MINNESOTA’S RESPONSE TO PROJECT ON PREDATORY  
STUDENT LENDING’S MOTIONS TO INTERVENE AND FOR CLARIFICATION OR  
MODIFICATION OF PROTECTIVE ORDER**

Plaintiff the State of Minnesota (“Minnesota”), states as follows in response to the Project on Predatory Student Lending’s motions to intervene and clarify and/or modify the protective order in the above-captioned matter:

**BACKGROUND**

On or about June 30, 2016, the Project on Predatory Student Lending of the Legal Services Center of Harvard Law School (“the Project”) submitted a request for information to the Minnesota Attorney General’s Office (“MN AGO”) pursuant to the Minnesota Government Data Practices Act, Minnesota Statutes chapter 13. Specifically, the Project requested certain materials produced by Defendants during discovery in this case. Subsequently, on July 21, 2016, the MN AGO responded to the request and advised the Project that it had no data responsive to its requests.

The Project served similar requests on the other Plaintiff-States in this matter, as well as the United States. Subsequently, on September 6, 2016, the United States denied the Project’s data request. Thereafter, the Project filed motions to intervene in this matter for the purpose of

clarification and/or modification of the protective order in order to gain access to the information Defendants produced during discovery, which it had previously sought through its open-records requests.

The Project has represented that it seeks this information in order to aid former EDMC students<sup>1</sup> who have brought borrower-defense-to-repayment claims, in order to obtain forgiveness of their federal student loans from the United States Department of Education. Federal Regulations promulgated by the Department, and effective since 1995, provide that:

[a] borrower may assert as a defense against repayment, any act or omission of the school attended by the student that would give rise to a cause of action against the school under applicable State law. . . . If the borrower's defense against repayment is successful, the Secretary notifies the borrower that the borrower is relieved of the obligation to repay all or part of the loan and associated costs and fees that the borrower would otherwise be obligated to pay. The Secretary affords the borrower such further relief as the Secretary determines is appropriate under the circumstances.

34 C.F.R. § 685.206 (c)(1) & (2); *see also* 34 C.F.R. § 682.209(g). These longstanding regulations provide an avenue for former EDMC students to request relief from repayment of their federal loans used to pay for enrollment in EDMC-schools if they enrolled and paid tuition to the schools due to fraud or misrepresentations by EDMC, in violation of state law.

#### **MINNESOTA'S POSITION CONCERNING THE PROJECT'S MOTIONS**

As noted above, Minnesota does not have documents responsive to the Project's data requests. Nevertheless, Minnesota supports the Project's efforts to help affected EDMC students successfully assert borrower-defense claims in order to obtain loan forgiveness based on EDMC's conduct. Accordingly, Minnesota believes it would be advisable and in the public interest for the parties to come to a resolution, which would allow the Project to access at least a

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<sup>1</sup> The Project represents former EDMC students who incurred substantial student loan debt while attending the New England Institute of Art, which is owned by EDMC.

subset of representative and relevant documents produced by EDMC in this case. This information could aid students in their efforts to obtain loan forgiveness from the United States Department of Education, which would unburden them from thousands of dollars of debt.

Accordingly, Minnesota believes that the public interest is best served by the Project receiving access to at least a representative portion of the information produced by EDMC in this matter that is relevant to their borrower-defense-to-repayment claims. Such a result would support the Project's commendable efforts to aid former EDMC students in exercising their right to seek forgiveness of their federal student loans by pursuing federal borrower-defense claims.

Dated: February 2, 2017

Respectfully submitted,

LORI SWANSON  
Attorney General  
State of Minnesota

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*Attorney for the State of Minnesota*

**CERTIFICATE OF SERVICE**

I hereby certify that on February 2, 2017, I electronically filed the foregoing Response to Project on Predatory Student Lending's Motions to Intervene and for Clarification or Modification of Protective Order using the CM/ECF system, which will send notification of such to all counsel of record.

/s/ Jason Pleggenkuhle  
JASON PLEGGENKUHLE