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12 **UNITED STATES DISTRICT COURT**
13 **NORTHERN DISTRICT OF CALIFORNIA**

14
15 MARTIN CALVILLO MANRIQUEZ, JAMAL
16 CORNELIUS, and RTHWAN DOBASHI, on
behalf of themselves and all others similarly
17 situated,

18 *Plaintiffs,*

19 v.

20 ELISABETH DEVOS, in her official
21 capacity as Secretary of the United States
Department of Education,

22 And

23 THE UNITED STATES DEPARTMENT OF
24 EDUCATION,

25 *Defendants.*
26

Case No.: 17-7210

**CLASS ACTION COMPLAINT FOR
DECLARATORY AND INJUNCTIVE
RELIEF**

(Class Action)

(Administrative Procedure Act Case)

PRELIMINARY STATEMENT

1
2 1. Named Plaintiffs Martin Calvillo Manriquez, Jamal Cornelius, and Rthwan
3 Dobashi borrowed federal student loans in order to attend career training programs at schools
4 operated by Corinthian Colleges, Inc. (“Corinthian” or “CCI”). They were misled and mistreated
5 by Corinthian, which held itself out as offering quality vocational training programs that
6 consistently placed graduates in desired jobs. In reality, Corinthian’s schools were a sham,
7 propped up by a series of lies. Its marketing campaigns targeted people who were in urgent need
8 of employment. Like so many of their classmates, Named Plaintiffs incurred substantial debt to
9 attend a Corinthian program that wasted their time and provided no value.

10 2. Each of the Named Plaintiffs has submitted an application for loan discharge to
11 the Defendants, Elisabeth DeVos, Secretary of the United States Department of Education, and
12 the Department of Education. In recognition of substantial evidence of Corinthian’s illegal
13 conduct and falsification of job placement rate data it widely published, the Department
14 determined that Named Plaintiffs and others who attended specified Corinthian programs during
15 specified time periods are entitled to have their federal student loans discharged. The
16 Department created a short, simple attestation form for students to use to apply for and receive a
17 discharge.

18 3. Prior to January 20, 2017, the Department granted full discharges to nearly 25,000
19 former Corinthian students who submitted this attestation form. Since January 20, 2017, the
20 Department has not granted a single discharge. It has halted the processing of the applications of
21 Named Plaintiffs and other students who are eligible for loan relief. In so doing, it has abandoned
22 an established rule, and left over 80,000 former Corinthian students who have applied for loan
23 discharge in limbo. The Department does not have the discretion to take these actions in light of
24 its well-publicized prior determination that Named Plaintiffs, and tens of thousands of other
25 individuals victimized by the predatory Corinthian Colleges, are entitled to loan discharge upon
26 submission of a simple attestation form.

1 the Named Plaintiffs currently reside in the district and have done so throughout the time period
2 at issue in this action.

3 **PARTIES**

4 9. Plaintiff Martin Calvillo Manriquez is a resident of Oakland, located in Alameda
5 County California.

6 10. Plaintiff Jamal Cornelius is a resident of Hercules, located in Contra Costa
7 County, California.

8 11. Plaintiff Rthwan Dobashi is a resident of San Jose, located in Santa Clara County,
9 California.

10 12. Defendant Elisabeth DeVos is the Secretary of Education and charged with the
11 supervision and management of all decisions and actions of the United States Department of
12 Education. Plaintiffs sue Secretary DeVos in her official capacity.¹

13 13. Defendant United States Department of Education is an agency of the United
14 States within the meaning of the APA, 5 U.S.C. § 701(b)(1). It is responsible for overseeing and
15 implementing rules for federal student aid program.

16 **ALLEGATIONS COMMON TO THE CLASS**

17 ***Statutory and Regulatory Framework of “Borrower Defense”***

18 14. The Higher Education Act of 1965 and its amendments (“HEA”) authorize the
19 federal student financial aid program, often referred to as “Title IV.” 20 U.S.C. § 1070, *et seq.*

20 15. The Department is responsible for overseeing and implementing rules for Title IV
21 of the Higher Education Act, as amended, including the William D. Ford Direct Loan Program,
22 20 U.S.C. § 1087a, *et seq.*

23 16. The Department administers various Title IV programs, including the William D.
24 Ford Federal Direct Loan Program, 20 U.S.C. §§ 1087a-1087j.

25
26 _____
27 ¹ Plaintiffs allege that Secretary DeVos is responsible by statute for all official actions and
28 activities of the Department. As such, all allegations in this Complaint against Defendant U.S.
Department of Education are made equally against Defendant DeVos.

1 17. Under the Direct Loan Program, the Department directly lends money to eligible
2 student borrowers for use at “participating institutions of higher education” as approved by the
3 Department.

4 18. All institutions approved by the Department to participate in Title IV programs
5 enter into a Program Participation Agreement with the Department.

6 19. The purpose of the Direct Loan Program is “to assist in making available the
7 benefits of postsecondary education to eligible students[.]” 20 U.S.C. § 1070(a).

8 20. The Direct Loan Program, like other Title IV programs, is an important source of
9 financing for individuals who otherwise would not be able to afford higher education and could
10 not meet underwriting standards of private lenders.

11 21. In 1993, Congress altered the terms and conditions of Direct Loans to allow for
12 student loan borrowers to seek cancellation of their loans on the basis of school misconduct. 103
13 P.L. 66, 107 Stat. 312 (amending Section 455(h) of the HEA). The statute directs that “the
14 Secretary shall specify in regulations which acts or omissions of an institution of higher
15 education a borrower may assert as a defense to repayment of a loan made under this part[.]” 20
16 U.S.C. § 1087e(h). Pursuant to this directive, the Secretary promulgated a regulation that permits
17 a Direct Loan borrower to assert, as a defense to repayment, “any act or omission of the school
18 attended by the student that would give rise to a cause of action against the school under
19 applicable State law.” 34 C.F.R. § 685.206(c)(1). This regulation became effective July 1, 1995.

20 22. Since that time, all Direct Loans have been issued pursuant to a Master
21 Promissory Note that informs borrowers that he or she “may assert, as a defense against
22 collection of your loan, that the school did something wrong or failed to do something that it
23 should have done,” provided that “the school’s act or omission directly relates to your loan or to
24 the educational services that the loan was intended to pay, and if what the school did or did not
25 do would give rise to a legal cause of action against the school under applicable state law.”

26 23. A borrower defense relieves the borrower “of the obligation to repay all or part of
27 the loan and associated costs and fees.” 34 C.F.R. § 685.206(c)(2). The Secretary is empowered
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1 to provide “further relief,” which may include, without limitation, “[r]eimbursement of the borrower
2 for amounts paid toward the loan voluntarily or through enforced collection,” “[d]etermining that
3 the borrower is not in default on the loan and is eligible to receive assistance under title IV of the
4 Act,” and “[u]pdating reports to consumer reporting agencies to which the Secretary previously
5 made adverse credit reports with regard to the borrower’s Direct Loan.” *Id.*

6 24. The 1995 borrower defense regulation governs the loans at issue in this action,
7 consistent with the terms of those notes.

8 ***Corinthian’s Serious and Repeated Misconduct as Basis for Loan Discharge***

9 25. Corinthian Colleges, Inc. was a large for-profit college chain headquartered in
10 California. It stands as a powerful and notorious example of a predatory for-profit college that
11 cheated students and wasted taxpayer money.

12 26. A 2012 report of the United States Senate’s Health, Education, Labor and
13 Pensions (“HELP”) Committee, entitled “For Profit Higher Education: The Failure to Safeguard
14 the Federal Investment and Ensure Student Success,” as well as other studies regarding for-profit
15 colleges, have documented abusive practices by for-profit schools that include, but are not
16 limited to:

- 17 a. Improperly attracting students by touting inflated graduation or employment
18 statistics, which convey an inaccurate and misleading impression of the value of
19 the program;
- 20 b. Employing high-pressure sales tactics to pressure students into enrolling;
- 21 c. Providing incomplete, inaccurate, or false information about program cost and
22 financial aid;
- 23 d. Falsely representing that credits earned at their institution will be transferrable to
24 other education institutions;
- 25 e. Misrepresenting that programs will enable completers to sit for professional
26 licensure exams or other exams that are legal or *de facto* requirements for
27 employment in the student’s field of study; and
28

1 f. Saddling students with debt without providing advertised career training.

2 27. Corinthian committed the misconduct identified by the HELP Committee Report,
3 and more.

4 28. Corinthian operated schools across the country and online under the brands
5 Everest, Heald, and WyoTech. It offered primarily certificate and associate degree programs that
6 purported to provide training in a variety of vocations, including health care, business, criminal
7 justice, transportation technology and maintenance, construction trades, and information
8 technology.

9 29. During its peak year of 2009-10, Corinthian operated over 100 campuses in 25
10 states, enrolled over 110,000 students, and collected \$1.7 billion in federal student aid. Over
11 \$500 million of this was in Pell Grants, a form of federal student aid for economically
12 disadvantaged students.

13 30. The 2012 Senate HELP Report found that Corinthian's programs were among the
14 highest-cost of the for-profit programs examined, and that withdrawal and default rates of
15 Corinthian students were among the highest in the for-profit sector.

16 31. In two examples cited by the HELP Report, a Medical Assistant diploma at
17 Corinthian's Heald College in Fresno, California cost \$22,275. A comparable program at Fresno
18 City College cost \$1,650. An associate degree in paralegal studies at Everest College in Ontario,
19 California cost \$41,149, compared to \$2,392 for the same degree offered at Santa Ana College.

20 32. As of 2014, the population of students enrolled in Corinthian schools nationwide
21 was 42 percent white, 35 percent African American, and 18 percent Latino. Over 70 percent of
22 all students at Corinthian schools were female.

23 33. In the decade prior to its collapse, the attorneys general of twenty-three states
24 launched investigations of and/or issued subpoenas to Corinthian concerning its predatory and
25 deceptive recruiting and financial aid practices and their potential violation of state consumer
26 protection laws.

1 34. These investigations demonstrated that Corinthian relentlessly pursued potential
2 students—including veterans, immigrants, people of color, single parents, and first-generation
3 college students—promising jobs and high earnings that its degrees simply did not come close to
4 providing. In one two-week period in 2014, Corinthian spent over \$600,000 to purchase
5 advertisements for its schools on Black Entertainment Television (“BET”).

6 35. Internal Corinthian documents describe a marketing strategy geared toward
7 prospective students who were “isolated,” “impatient,” had “low self-esteem,” “few people in
8 their lives who care about them,” were “stuck,” and “unable to see and plan well for the future.”

9 36. In 2007, the Attorney General of California sued Corinthian for a “persistent
10 pattern of unlawful conduct” in the operation of its schools in California, including the
11 promotion of falsely inflated job placement statistics and the use of other untrue and misleading
12 statements to induce students to enroll in Corinthian schools. The case was concluded by
13 stipulated judgment that same year. The judgment prevented Corinthian from enrolling new
14 students in specific programs, cancelled student debt owed directly to the school, and ordered
15 further injunctive relief related to calculation of job placement rates.

16 37. The Attorney General of California again sued Corinthian in 2013 for violating
17 California law by misrepresenting job placement rates to students, using misleading advertising,
18 and making misrepresentations to students in order to enroll them in Corinthian programs.
19 Following submission of proof by the California Attorney General, the court entered a default
20 judgment against Corinthian in 2016, making multiple well-documented findings of fact that
21 Corinthian committed systemic fraud and misrepresentation. These findings of fact included, but
22 were not limited to:

- 23 a. That Corinthian systematically and fraudulently induced students to enroll
24 through “untrue and/or misleading” representations about their likely
25 employment outcomes; and
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1 b. That Corinthian issued misleading “standardized disclosures for each campus
2 related to job placement,” which were published online and given to each student
3 in the enrollment process.

4 38. Also in 2013, the Massachusetts Attorney General filed suit against Corinthian for
5 violations of Massachusetts consumer protection law, alleging that the company misrepresented
6 the need to enroll immediately in Corinthian schools, the school’s influence and historical
7 success in placing students in jobs, the earnings of graduates, the placement assistance provided
8 by the school, the nature and quality of the programs offered, the transferability of credits earned
9 at the school, the training opportunities available in school-arranged externships, and the nature
10 and availability of financial aid.

11 39. The Massachusetts Attorney General’s extensive investigation of Corinthian
12 “uncovered a program built on predation and lies,” amounting to “an unrelenting scheme to
13 secure unaffordable federal loans from vulnerable students, without providing the education,
14 services, or opportunities promised” and “a pervasive violation of Massachusetts law.”

15 40. In granting summary judgment against Corinthian and for Massachusetts, the
16 court found Corinthian liable for violating the Massachusetts Consumer Protection Act, and
17 ordered Corinthian to pay restitution representing refunds of all costs paid by all graduates of all
18 programs offered between July 1, 2007 and June 30, 2014.

19 41. The Attorney General of Wisconsin sued Corinthian in October 2014, on the
20 grounds that the company used deceptive marketing to lure students into its Everest Institute
21 campus located in that state. The Attorney General of Wisconsin’s investigation showed that
22 whereas Corinthian advertised a job placement rate of 90% and higher for its programs, some of
23 its programs had job placement rates as low as 5%, and none as high as advertised.

24 42. In 2014, the Consumer Financial Protection Bureau sued Corinthian, alleging that
25 for years, the school had induced prospective students to enroll through false and misleading
26 representations about its graduates’ career opportunities and likelihood of obtaining jobs upon
27 graduation, using falsely inflated job placement statistics, among other things. In 2015, the court
28

1 entered a default judgment against Corinthian, which included numerous findings that Corinthian
2 engaged in unfair and deceptive acts on a widespread basis.

3 43. The Department began its investigation of Corinthian's reported placement rates
4 in January 2013.

5 44. In January 2014, the Department requested data from Corinthian to verify its
6 reported placement rates for every Corinthian location, for the calendar years 2010, 2011, 2012,
7 and (when available) 2013, including a list of all students either placed or omitted from the
8 placement calculation.

9 45. Receiving no response, in June 2014 the Department of Education placed
10 Corinthian schools on "Heightened Cash Monitoring," requiring Corinthian to wait 21 days after
11 submitting requests to draw down federal student aid funds.

12 46. In March 2015, the Department ordered Corinthian to post a letter of credit as a
13 condition of continued participation in federal student aid programs.

14 47. In April 2015, the Department fined Corinthian approximately \$30 million for
15 violating the Department's prohibition on "substantial misrepresentation," 34 C.F.R. Part 668,
16 subpart F, by publishing falsely inflated job placement rates in 947 separate programs at its
17 Heald College locations. The Department explained that it:

18 determined that Heald College's inaccurate or incomplete disclosures were
19 misleading to students; that they overstated the employment prospects of graduates
20 of Heald's programs; and that current and prospective students of Heald could have
21 relied upon that information as they were choosing whether to attend the school.
Heald College provided the Department and its accreditors this inaccurate
information as well.

22 48. In addition, the Department found that Heald paid temporary agencies to hire its
23 graduates to work temp jobs on its own campuses for positions as short as two days, performing
24 tasks such as moving computers and organizing cables, and counted those graduates as placed in
25 their field of study. One Heald location classified a 2011 graduate of an accounting program as
26 employed in the field on the basis of a food service job she started at Taco Bell years prior to
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1 enrolling. Another campus counted a graduate of its business administration program as “placed
2 in the field” based upon a seasonal clerk position she held prior to her graduation.

3 49. Later that month, on April 27, 2015, Corinthian announced the closure of all of its
4 remaining school locations.

5 50. In May 2015, Corinthian filed for bankruptcy under Chapter 11.

6 ***The Department’s “Corinthian Job Placement Rate Rule”***

7 51. When Corinthian closed abruptly after years of documented illegal conduct, those
8 who borrowed federal student loans to attend a Corinthian program began to assert, in
9 unprecedented numbers, their right to loan cancellation under the Department’s borrower defense
10 regulations and the terms of their loan notes.

11 52. The Department created a special process for former Corinthian students to
12 submit a borrower defense claim, and formulated a rule to govern the adjudication of these
13 claims.

14 53. Because Corinthian schools consistently misrepresented job placement rates of its
15 programs in a manner that would give rise to a cause of action under state law—a borrower
16 defense—the Department’s rule focuses on this type of misconduct.

17 54. The rule (referred to herein as “Corinthian Job Placement Rate Rule”) consists of
18 several interrelated determinations made by the Department:

- 19 a. First, the law that is “applicable” to the borrower defense claims submitted by
20 Corinthian borrowers, wherever they attended, is California law;
- 21 b. Second, evidence establishes that Corinthian misrepresented job placement rates
22 at specified campuses, respecting specified programs, during specified periods of
23 time (“findings cohorts”);
- 24 c. Third, any Corinthian borrower who submits a simple attestation form provided
25 by the Department, or otherwise submits information sufficient to establish
26 membership in a findings cohort has established a borrower defense; and
27

1 d. Fourth, the relief available to Corinthian borrowers who establish that they are
2 members of a findings cohort is full cancellation of outstanding amounts on
3 related loans and return of any money collected by the Department on those loans,
4 as a matter of California law.

5 55. On information and belief, the legal basis for the Corinthian Job Placement Rate
6 Rule is codified in legal memoranda written, approved, and relied upon by the Department,
7 including, without limitation, a May 2015 memorandum prepared by the Department's Office of
8 General Counsel ("OGC"), a fine action letter prepared by Federal Student Aid's Administrative
9 Actions & Appeals Service Group, and an April 2015 document prepared by Federal Student Aid
10 ("FSA")'s Administrative Actions & Appeals Service Group.

11 56. The existence and specifics of the Corinthian Job Placement Rate Rule are clear
12 from multiple public statements of the Department.

13 57. For example, a report released on September 3, 2015, by Joseph A. Smith, Jr., the
14 Department-appointed Special Master for Borrower Defense ("Special Master"), explains that
15 [b]ecause Heald was headquartered in and managed from California, the
16 Department looked to California law and determined that Heald's
17 misrepresentation of placement rates constituted prohibited unfair competition
18 under California's Unfair Competition Law (UCL). Accordingly, students that
relied on such misleading placement rates when they enrolled at Heald would have
a cause of action under state law.

19 58. The Department publicly announced the cohorts of borrowers covered by the
20 Corinthian Job Placement Rate Rule in three stages.

21 59. In June 2015, the Department announced that it had "determined that evidence of
22 misrepresentation exists for students enrolled in a large majority of programs offered at Heald
23 College campuses between 2010 and 2015."

24 60. In November 2015, the Department announced findings of job placement rate
25 misrepresentation at specific programs, during specific periods, offered at 20 Everest and
26 WyoTech campuses and online programs.

1 61. In March 2016, the Department announced findings of job placement rate
2 misrepresentation at specific programs, during specific periods, offered at an additional 71
3 Everest and WyoTech campuses.

4 62. These findings are publicly available on the Department’s website and attached
5 hereto as Exhibit A (Heald findings) and Exhibit B (Everest and WyoTech findings).

6 63. The Department also makes available to the public on its website two simple
7 forms for the purpose of establishing the applicability of the Corinthian Job Placement Rate Rule
8 to individual borrowers, attached hereto as Exhibit C (Heald Attestation Form) and Exhibit D
9 (Everest and WyoTech Attestation Form).

10 64. As explained by the Department to the Office of Management and Budget
11 (“OMB”):

12 Student borrowers who attended the Heald College programs that the Department
13 has found made false representations will have their loans discharged if they
14 complete the attached attestation. These borrowers need not prove that Heald
15 College’s actions violated State law as the Department’s findings show a State law
16 violation.

17 65. The Department reiterated that submission of the attestation was sufficient for a
18 borrower to “confirm eligibility for the borrower defense against repayment” under its Corinthian
19 Job Placement Rate Rule when it later sought authorization from OMB to continue its emergency
20 data collection from Corinthian borrowers, in order to allow

21 [s]tudent borrowers who attended the Heald College programs that the Department
22 has found made misrepresentations to have their loans discharged if they complete
23 the attached attestation. These borrowers need not prove that Heald College’s
24 actions violated State law as the Department’s findings show a State law violation.

25 66. The Corinthian Job Placement Rate Rule was further affirmed with respect to
26 Heald borrowers in a December 2015 report by the Special Master, describing:

27 the Department’s determination, after consultation with the Office of the California
28 Attorney General, that students who relied upon false or misleading placement rate
disclosures in enrolling in Heald College programs would have established a BD
claim *as to which relief would be granted under California law*. The Heald
Attestation Form provided by ED to student borrowers incorporated each of these
elements of a claim as to which relief could be granted.

1 (emphasis added).

2 67. Thus, the attestation form allowed the Department to determine “whether [the
3 borrower] met the elements for relief,” under the Corinthian Job Placement Rate Rule, “namely
4 whether they were enrolled in the covered programs for the time periods for which the
5 Department found that Heald College had misrepresented job placement rates.”

6 68. The Heald attestation form is four pages long. The first page contains the
7 following statement:

8 The Department of Education has found that at various times between 2010 and
9 2014, Heald College published misleading job placement rates for many of its
10 programs of study. This form is designed to expedite the process of obtaining loan
11 forgiveness based on borrower defense to repayment for loans taken out by Heald
12 College students to enroll in these programs. This form covers federal Direct Loans
13 received on or after July 1, 2010. A list of covered programs and dates of
14 enrollment is available at [https://studentaid.gov/sa/sites/default/files/heald-
15 findings.pdf](https://studentaid.gov/sa/sites/default/files/heald-findings.pdf). Please fill out this attestation ONLY IF your programs and dates of
16 enrollment are included on this list.

17 69. The form contains five sections: Section I, Borrower Information; Section II,
18 Program Information; Section III, Other Information; Section IV, Direct Loan Forbearance; and
19 Section V, Certification.

20 70. Section II prompts the borrower to select, from a predetermined list, the Heald
21 campus and program that she attended, and the credential associated with that program. The
22 form asks the borrower to supply her enrollment start and end date.

23 71. Section II also asks the borrower to indicate, by checking a box, that they received
24 information about job placement rates related to their program of study prior to enrolling. It
25 further contains the statement:

26 I believed that the job placement rates related to my program of study indicated the
27 level of quality a Heald education offered to students. I chose to enroll at Heald
28 based, in substantial part, on the information I received about job placement rates
related to my program of study and the quality of education I believed those
placement rates represented.

1 72. The form allows but does not require the borrower to include “document(s) with
2 additional information to confirm that I was enrolled in the program of study at Heald College
3 that I identified above, and was enrolled for the dates I provided above.”

4 73. Section III allows the borrower to “provide or attach any other information about
5 your experience at Heald College that you believe is relevant: (2,000 characters max).”

6 74. Section IV asks the borrower to indicate whether they wish their federal loans to
7 be placed into forbearance and for collection on any federal loans in default to stop while the
8 borrower defense claim is reviewed by the Department.

9 75. Section V asks the borrower to sign and date an attestation of truthfulness, subject
10 to the penalties set forth in 18 U.S.C. § 1001.

11 76. The attestation form for Everest and WyoTech borrowers is identical in all
12 material respects to the Heald attestation form.

13 ***The Department’s Application of the Corinthian Job Placement Rate Rule***

14 77. From its inception until January 20, 2017, the Department consistently applied the
15 Corinthian Job Placement Rate Rule to grant borrower defense relief to individuals who attended
16 the specified programs during the periods of time identified by the Department.

17 78. The Corinthian Job Placement Rate Rule took effect as early as June 2015, when
18 the Department sought and received emergency clearance from OMB to take certain actions with
19 respect to Corinthian borrowers.

20 79. Whereas the Department had received only 5 claims for borrower defense in the
21 previous 20 years, “[o]ver the last several months, the Department has received over 1,000 such
22 claims due to a building debt activism movement as well as the notoriety of Corinthian’s
23 collapse, creating a need for a clearer process for potential claimants.”

24 80. The Department recognized that “borrowers have a right to assert a defense to
25 repayment claim,” and in light of the fact “that the Department has made findings against a
26 number of CCI’s former programs,” the Department “has a legal responsibility to timely
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1 provide” relief by “set[ting] up a process to review and adjudicate” the claims of former
2 Corinthian students.

3 81. The Corinthian Job Placement Rate Rule was the first and primary means that the
4 Department used to ensure that student borrowers injured by Corinthian would, in the words of
5 Arne Duncan, former Secretary of Education, “get every penny of the debt relief [they] are
6 entitled to[.]”

7 82. The Department recognized that, out of the tens of thousands of borrower defense
8 claims it had received, the clearest, simplest claims to resolve were those submitted under the
9 Corinthian Job Placement Rate Rule:

10 Wherever possible, the Department will rely on evidence established by appropriate
11 authorities in considering whether whole groups of students (for example, an entire
12 academic program at a specific campus during a certain time frame) are eligible for
13 borrower defense relief. This will simplify and expedite the relief process, reducing
14 the burden on borrowers.

15 83. The Department intended the Corinthian Job Placement Rate Rule to be an
16 “expedited” and “streamlined” process. The Rule was a means to “fast track relief based on legal
17 findings for large groups of students,” so that there would be “no need for these students to make
18 any individual showing that they were affected by the school’s fraud,” according to Ted
19 Mitchell, former Under Secretary of Education.

20 84. Between June 2015 and June 30, 2016, the Department’s borrower defense
21 process was administered by the Special Master in conjunction with FSA, the Office of the
22 Under Secretary, and the Office of General Counsel of the Department.

23 85. In his first report, issued in September 2015, the Special Master affirmed that the
24 Corinthian Job Placement Rate Rule cases were the low hanging fruit of the pending applications
25 for loan discharge under borrower defense because “both facts and law are clear.” Thus, “[t]he
26 clearest claims at present are claims from Heald College students using the Attestation Form
27 created by the Department that meet the criteria set forth in that form.”

28 86. Each time that the Special Master submitted claims to the Under Secretary for
approval pursuant to the Corinthian Job Placement Rate Rule, he recommended, and the Under

1 Secretary approved, relief according to the rule—complete cancellation and a return of any
2 money paid to the Department on the loans.

3 87. During the Special Master’s tenure, the Department approved approximately
4 3,787 claims pursuant to the Corinthian Job Placement Rate Rule.

5 88. As of July 1, 2016—the termination of the Special Master’s appointment—there
6 were approximately 22,800 claims for borrower defense pending at the Department.

7 89. Beginning July 1, 2016, the Department’s borrower defense process was
8 administered by the Borrower Defense Unit, a division of the Enforcement Unit created within
9 FSA, in conjunction with the Office of the Under Secretary, Office of General Counsel, and the
10 Business Operations Unit of FSA.

11 90. The Borrower Defense Unit continued to process claims according to Corinthian
12 Job Placement Rate Rule, and integrated the Rule into its operating procedures.

13 91. The Borrower Defense Unit evaluated every claim it reviewed first under the
14 Corinthian Job Placement Rate Rule. Only if the borrower was not covered by the Rule—that is,
15 did not attend a specific Corinthian program within an identified findings window—did the
16 Department consider whether the borrower otherwise established a claim for discharge under
17 borrower defense.

18 92. Between July 1, 2016 and January 20, 2017, the Department approved
19 approximately 24,500 claims under the Corinthian Job Placement Rate Rule.

20 93. In October 2016, FSA issued a public report on the Department’s borrower
21 defense process, indicating that the Borrower Defense Unit’s “focus has been to accelerate
22 adjudication of the rapidly increasing number of claims based on the Department’s findings
23 concerning Corinthian’s misleading job placement rates (‘findings claims’).”

24 94. As of October 2016, the Department had received approximately 82,000 borrower
25 defense claims. Approximately 60 percent of these claims were covered by the Corinthian Job
26 Placement Rate Rule.

1 95. In its October 2016 report, the Department stated that between June and October
2 2016, the Department had approved 11,822 “findings claims” pursuant to the Corinthian Job
3 Placement Rate Rule, and that “[a]t the current pace, the Department expects to resolve all
4 pending eligible findings claims by spring 2017.”

5 96. On information and belief, each and every time the Department approved a claim
6 pursuant to the Job Placement Rate Rule, it provided the borrower with a full cancellation of all
7 outstanding student loan debt and a return of all money previously collected by the Department
8 on that loan.

9 97. Prior to January 20, 2017, the Department did not deny any claims for borrower
10 defense.

11 98. In total, prior to January 20, 2017, the Department granted borrower defense
12 discharges to approximately 25,000 individuals who attended Corinthian. The vast majority of
13 these claims (all but approximately 600) were granted pursuant to the Corinthian Job Placement
14 Rate Rule.

15 99. The Department also approved a number of claims asserted by Corinthian
16 borrowers who were not members of a findings cohort, on the grounds that those borrowers had
17 established a cause of action under state law (and therefore a borrower defense) because
18 Corinthian made an express guarantee of employment, or misrepresented that credits awarded by
19 the school would transfer to another institution.

20 100. On information and belief, the legal and factual bases of the Department’s
21 decision to grant relief with respect to these two categories of non-findings claims are set forth in
22 memoranda that specifically reference and build off of the Corinthian Job Placement Rate Rule.

23 ***The Department’s Abandonment of the Corinthian Job Placement Rate Rule***

24 101. Since January 20, 2017, the Department has not approved any claims under the
25 Corinthian Job Placement Rate Rule.

1 102. This is true despite the Department’s receipt of tens of thousands of attestation
2 forms from borrowers covered by the Rule on which it has failed to act. Many of these
3 applications were received by the Department well over a year ago.

4 103. Public statements by senior Department officials, the Secretary of Education, the
5 Acting Under Secretary of Education James Manning, and a report conducted by the
6 Department’s Office of Inspector General (“OIG”) (Federal Student Aid’s Borrower Defense to
7 Repayment Loan Discharge Process, Dec. 8, 2017, ED-OIG/I04R0003) confirm that the
8 Department made an affirmative decision to abandon the Corinthian Job Placement Rate Rule.

9 104. In March 2017, the Acting Under Secretary formed a Borrower Defense Review
10 Panel.

11 105. Shortly thereafter, the Review Panel placed the processing of borrower defense
12 claims, including those under the Corinthian Job Placement Rate Rule, on indefinite pause.

13 106. This pause meant that approximately 16,000 claims that the prior administration
14 had approved pursuant to the Corinthian Job Placement Rate Rule, which had not yet gone
15 through the mechanical discharge process, were not discharged.

16 107. On May 4, 2017, the Acting Under Secretary issued a directive to the Borrower
17 Defense Unit to cease submitting any borrower defense claims to the Acting Under Secretary for
18 approval until “interim procedures” could be developed.

19 108. On June 14, 2017, the Secretary announced that, pursuant to a “regulatory reset,”
20 she was undergoing further rulemaking on borrower defense, and delaying the borrower defense
21 regulation that had become final during the prior administration and was set to go into effect on
22 July 1.²

23
24
25
26 ² This rulemaking does not impact the loans at issue in this Complaint. Further, the lawfulness
27 of the Defendants’ delay of the regulation has been challenged as unlawful by students, *Bauer v.*
28 *DeVos*, No. 17-1330 (D.D.C., filed July 6, 2017) and a multi-state group of attorneys general,
Mass. v. U.S. Dept. of Educ., No. 17-1331 (D.D.C., filed July 6, 2017).

1 109. On July 7, 2017, in reponse to questions from several members of the U.S.
2 Senate, the Acting Under Secretary stated that, as of that date, 96,944 borrower defense claims
3 had been received by the Department since June 2015, and 65,169 of these claims were
4 “currently pending review, decision, or adjudication.” Of these, 45,092 “pending claims” were
5 “associated with students who attended Corinthian.”

6 110. Data provided by Acting Under Secretary Manning to Senators showed that
7 residents of California had submitted the most claims for borrower defense (25,653) and had the
8 most claims pending (15,465) of any state. This volume is attributable to the large number of
9 students in California affected by Corinthian’s illegal conduct.

10 111. Acting Under Secretary Manning reported that between January 20, 2017 and July
11 7 of that year, the Department received 14,949 borrower defense claims.

12 112. He further stated, “No borrower defense applications have been approved
13 between January 20, 2017, and today.”

14 113. On information and belief, the Department has not “approved” any borrower
15 defense applications between July 7, 2017 and the date of the filing of this Complaint.

16 114. Two claims out of 96,944 had been denied. On information and belief, these
17 claims were submitted by borrowers who were not members of findings cohorts subject to the
18 Corinthian Job Placement Rate Rule.

19 115. Acting Under Secretary Manning advised that “there are currently no regularly
20 produced reports provided to senior officials” concerning borrower defense, “pending the review
21 of the borrower defense process by the new Administration.”

22 116. The Department’s position that it is not bound by its Corinthian Job Placement
23 Rate Rule, and decision to abandon the Rule, is further evidenced by a procurement notice it
24 issued in August 2017. The Department sought to “acquire added resources” in the form of
25 outside contractors because “policy changes may necessitate certain claims already processed be
26 revisited to assess other attributes.”

1 117. This procurement also acknowledged an “existing large backlog of claims from
2 borrowers requesting relief from student loan debts,” which is “largely due to a combination of
3 [Department] outreach efforts and growing public awareness about the loan relief program,
4 which is causing a continuous flow of new claims.”

5 118. Despite these outreach efforts and the “continuous flow” of new claims, since
6 January 20, 2017, the Department has dramatically reduced the amount of internal resources
7 devoted to processing borrower defense claims, including under the Corinthian Job Placement
8 Rate Rule.

9 119. In November 2016, the Borrower Defense Unit was staffed with 10 attorneys, a
10 director, and 19 contracted staff. As of September 2017, the same unit had no director, and only
11 six contracted staff. The Department acknowledged in its procurement notice that “the FSA
12 borrower defense unit currently lacks sufficient staff[.]”

13 120. According to news reports, Secretary DeVos stated, during a September 2017
14 speech to the Mackinac Republican Leadership Conference, “Under the previous [borrower
15 defense] rules, all one had to do was raise his or her hands to be entitled to so-called free
16 money.”

17 121. According to a news article published in the *Washington Post* on October 24,
18 2017, there were at that time over 87,000 applications for debt relief pending at the Department.
19 “[P]eople within the agency who were not authorized to speak publicly” reported that “[a]t least
20 10,000 of those claims have been recommended for approval,” but “department officials are
21 refusing to pull the trigger.” Per this news article,

22 [Departmental sources] say leadership in the Office of Federal Student Aid and the
23 Office of the General Counsel would prefer to grant partial relief based on the debt-
24 to-earnings data collected from vocational programs. For example, if a former
25 nursing student from Corinthian Colleges applied for relief, her claim could be
26 judged based on the average salary of students in similar programs at other schools.
27 But those familiar with the issue say there is no consensus on a path forward at the
28 department.

 122. The Department continues to receive attestation forms and other claims for
borrower defense discharge from borrowers covered by the Corinthian Job Placement Rate Rule.

1 123. In its December 8, 2017 report, the Office of Inspector General recommended that
2 the Department resume the discharge process and noted that, in order to do so, the Borrower
3 Defense Unit would have to seek permission from the Office of the Under Secretary.

4 ***Class Members' Reliance on Corinthian Job Placement Rate Rule and Harm from the***
5 ***Department's Changed Course***

6 124. To date, the Department has provided relief to approximately 24,504 individuals
7 pursuant to the Corinthian Job Placement Rate Rule.

8 125. As of July 7, 2017, the Department had received but not processed over 45,000
9 claims for relief from former Corinthian students. By November 14, 2017, the Department had
10 received but not processed over 95,000 claims.

11 126. Assuming a continuation of prior trends, and in light of the outreach efforts
12 described below, a substantial number of these pending claims are covered by the Corinthian Job
13 Placement Rate Rule.

14 127. More individuals who are eligible for relief under the Corinthian Job Placement
15 Rule have applied for, and have not yet received, a borrower defense discharge than have gotten
16 the discharge.

17 128. The Department estimates that approximately 50,000 former Heald College
18 students may be eligible for loan discharge under the Corinthian Job Placement Rate Rule.
19 When the Department announced, in November 2015, the first round of findings regarding job
20 placement rate misrepresentation at Everest and WyoTech, it estimated that 85,000 additional
21 students may be eligible for relief under those findings.

22 129. The precise number of individuals eligible for discharge under the Corinthian Job
23 Placement Rate Rule is known to the Department.

24 130. On information and belief, the Department has in its possession program-level
25 data that allows it to determine which individual borrowers are covered by the Corinthian Job
26 Placement Rate Rule.

1 131. Tens of thousands of individuals who are eligible for loan relief under the
2 Corinthian Job Placement Rate Rule have not, but may, submit a claim to the Department.

3 132. It is likely that additional individuals will submit claims for relief because the
4 Department, state attorneys general, and legal aid advocates have engaged in extensive efforts to
5 make eligible individuals aware of the Corinthian Job Placement Rate Rule and the process for
6 submitting an attestation form.

7 133. The Department has conducted extensive outreach to borrowers it determined
8 potentially eligible for loan discharge under the rule.

9 134. These outreach efforts began as soon as the Department made findings regarding
10 Heald College.

11 135. In July 2015, the Department conducted an email outreach campaign to over
12 50,000 borrowers who attended Heald College since 2010 to notify them that they may be
13 eligible for debt relief. The email provided information about eligibility and linked to both the
14 list of programs covered by the Department’s findings and the webpage where one could fill out
15 and submit the attestation form.

16 136. Over the Special Master’s one year appointment, the Department had sent over
17 330,000 letters via email and postal mail to former Corinthian students who were members of
18 cohorts covered Department findings of job placement misrepresentation:

19 The Department is making numerous efforts to reach borrowers who may be
20 eligible for loan discharges under the CCI job placement rate findings, and
21 continues to work to improve its outreach efforts. This outreach consists of
22 multiple rounds of emails and postal mail to CCI borrowers who had their first loan
23 disbursement as early as January 1, 2010. This includes email and postal mail to
24 over 280,000 Everest and WyoTech borrowers and over 55,000 Heald borrowers.

25 137. The Federal Student Aid Enforcement Unit, after taking over the borrower
26 defense process over from the Special Master, conducted “ongoing outreach efforts to former
27 students of Corinthian Colleges, Inc.”

28 138. In October 2016, the Department explained that the methods it employed to
“inform borrowers that they may be eligible for borrower defense relief” included “expanded

1 postal mail outreach, a Facebook advertisement pilot, a servicer pilot that relies on emails, postal
2 mail, phone calls, and texts, and an outreach partnership with state attorneys general[.]”

3 139. The Department reported that it was “working closely” with state attorneys
4 general from 42 states and the District of Columbia to reach more borrowers covered by the
5 Corinthian Job Placement Rate Rule. The Department noted that it

6 would like to especially thank the Illinois and Maryland Attorney General’s Office
7 for their leadership and coordination of these efforts, as well as the Massachusetts
8 Attorney General’s Office, which has already gathered and submitted a large
9 number of claims from borrowers who attended campuses in Massachusetts. The
BD Unit thanks all of these state partners for their commitment to helping the
eligible borrowers in their state.

10 140. In spring 2017, a bipartisan group of 47 state attorneys general, using information
11 provided by the Department, conducted outreach to inform more than 100,000 former Corinthian
12 students who are eligible for discharge pursuant to the Corinthian Job Placement Rate Rule.

13 141. On information and belief, the Department provided these attorneys general with
14 spreadsheets identifying specific individuals it had determined were members of findings cohorts
15 and thus subject to the Corinthian Job Placement Rate Rule, for the purpose of conducting
16 outreach. This outreach is ongoing.

17 142. Legal aid organizations, including those representing Named Plaintiffs in this
18 action, have conducted outreach and held clinics to make former students of Corinthian Colleges
19 aware of their potential eligibility for loan discharge pursuant to the Corinthian Job Placement
20 Rate Rule and borrower defense generally.

21 143. These outreach efforts are justified in light of the harm that those subjected to
22 illegal conduct and thus eligible for relief under the Corinthian Job Placement Rate Rule have
23 suffered and continue to suffer.

24 144. Members of the proposed class spent their time, money, and eligibility for federal
25 student aid on sham programs. They did so because Corinthian lied to them, a fact which the
26 Department’s findings confirm.

27 145. The Department recognizes that they are entitled to a borrower defense discharge.
28

1 146. Borrower defense discharge removes the obligation to repay the loan, restores a
2 borrower's eligibility for federal financial aid, removes negative credit reporting associated with
3 the discharged loan or loans, and refunds any amount paid on the loan.

4 147. Until members of the proposed class receive discharge of their loans, the harm
5 from Corinthian's misconduct compounds. Members of the proposed class must forgo or defer
6 further education; they are unable to qualify for loans, or qualify only for the most predatory
7 loans, that many require to secure basic housing and transportation needs. Members of the
8 proposed class have impaired credit that negatively impacts their ability to obtain certain jobs
9 and precludes them from renting certain apartments.

10 148. Interest continues to accumulate on the loans of class members while claims are
11 pending, even if a borrower requests and the Department grants an administrative forbearance
12 during this period.

13 149. The Department's abandonment of the Corinthian Job Placement Rate Rule
14 denies members of the proposed class relief that they are entitled to. It treats them differently
15 than other borrowers who were granted discharges prior to the Department's abandonment of the
16 Rule.

17 150. The Department's actions compound the psychological distress that members of
18 the proposed class carry, due to the fact that they are saddled with loans that Defendants have
19 already determined to be the product of illegal behavior by Corinthian. Now they have been lied
20 to by both Corinthian and the federal government.

21 151. The Department has taken action to collect loans from members of the proposed
22 class, including by seizing their tax refunds and wages.

23 152. Because the Department has abandoned the Corinthian Job Placement Rate Rule,
24 Named Plaintiffs and members of the proposed class may not receive full discharges of their
25 loans.

26 153. Those who have applied or will apply for discharge based on the Department's
27 Corinthian Job Placement Rate Rule, and who ultimately do not receive full discharges will be
28

1 required to repay more money than had they never applied, because interest continues to
2 accumulate while Defendants sit on the claims.

3 154. Members of the proposed class who apply for, but ultimately do not receive full
4 discharges will further be injured by the Department's abandonment of the Corinthian Job
5 Placement Rate Rule. In reliance on the Department's promise of "expedited" and "fast-track"
6 relief, members of the proposed class have placed their loans in forbearance rather than in a
7 repayment status, thus extending not only the amount but also the life of the loan.

8 **FACTS CONCERNING NAMED PLAINTIFFS**

9 ***Martin Calvillo Manriquez***

10 155. Martin Calvillo Manriquez resides in Oakland, California.

11 156. Mr. Calvillo Manriquez first learned about WyoTech from a Corinthian recruiter
12 who attended a career fair at Mr. Calvillo Manriquez's high school. This recruiter, and later
13 other Corinthian representatives, discouraged Mr. Calvillo Manriquez from attending the
14 automotive program at a local community college that he had been considering and to instead
15 enroll in WyoTech. They repeatedly represented to him that WyoTech provided a top-notch
16 education that would lead to a successful and well-paid career in automotive technology.

17 157. He enrolled in the Applied Automotive Technology Diploma program at
18 Corinthian's WyoTech-Fremont campus on September 28, 2011. The financing that WyoTech
19 representatives arranged for his enrollment included two federal Direct Loans totalling \$6,418.

20 158. After enrolling at WyoTech, Mr. Calvillo Manriquez discovered that the quality
21 of education was not as promised and that he would not learn the skills there that he would need
22 to be employable. He did not have any real opportunity for the promised hands-on learning while
23 he was enrolled. Both the equipment and the instructors were insufficient and sub-par.

24 159. While he was in school, he worked at an oil change shop earning \$8 an hour. His
25 job involved changing oil and fluids, but the shop did not do any automotive repairs. Mr.
26 Calvillo Manriquez noticed former WyoTech students, who had completed the very same
27 program he was currently enrolled in, coming to the oil change shop to apply for the same low-
28

1 paying, non-technical job he already had—a job that did not require a certificate or any special
2 training.

3 160. Furthermore, after enrolling, Mr. Calvillo Manriquez spoke with several
4 WyoTech automotive program graduates who told him that their WyoTech education and
5 diploma had not helped them to get jobs in the field and instead had left them with
6 unmanageable student loan debt.

7 161. Based on this information, Mr. Calvillo Manriquez decided to withdraw from
8 WyoTech in early 2012. His last date of attendance was April 11, 2012.

9 162. Mr. Calvillo Manriquez is a member of the findings cohort identified by the
10 Department for the Applied Automotive Technology Diploma program at WyoTech-Fremont.
11 As listed in Exhibit B, this findings cohort includes those who attended between July 1, 2010 and
12 September 20, 2013.

13 163. Even though the Department determined that Mr. Calvillo Manriquez was misled
14 and cheated, the Department has collected aggressively on the federal loans he obtained to enroll
15 in WyoTech. Mr. Calvillo Manriquez is unable to afford the demanded payments.

16 164. On February 2, 2016, the Department offset of Mr. Calvillo Manriquez's full
17 2015 tax refund, in excess of \$2,000. In July 2016, the Department began garnishing 15% of his
18 wages.

19 165. Mr. Calvillo Manriquez did not learn of the Department of Education's findings
20 of wrongdoing by WyoTech or of his eligibility for discharge of his federal loans until well after
21 the Department initiated forced collection proceedings against him.

22 166. Mr. Calvillo Manriquez applied for borrower defense discharge by completing
23 and submitting the attestation form included as Exhibit D on January 3, 2017. The Department
24 has confirmed receiving his application on this date.

25 167. On January 12, 2017, Mr. Calvillo Manriquez sent separate requests for hearing to
26 the Department to contest the Department's garnishment of his wages and offset of his tax
27 refund. The Department never responded to Mr. Calvillo Manriquez's requests for hearing.

1 168. Shortly after Mr. Calvillo Manriquez submitted requests for hearings, the
2 Department stopped garnishing his wages without explanation. However, the Department again
3 offset Mr. Calvillo Manriquez's tax refund, this time for the 2016 tax year.

4 169. In total, the Department took approximately \$7,500 from Mr. Calvillo Manriquez
5 through forced collection.

6 170. The Department has yet to notify Mr. Calvillo Manriquez of any decision on his
7 application for discharge of his federal student loans. Though he has requested forbearance on
8 his loans while his hearing requests and application are under review, the Department continues
9 to report these loans as defaulted to credit reporting agencies.

10 171. Mr. Calvillo Manriquez's credit is impaired by the non-discharge of his
11 Corinthian loans. They are the only tradelines reported on his credit report, and the reporting is
12 negative.

13 172. Mr. Calvillo Manriquez has deferred applying for any credit transactions until
14 these loans and the negative reports associated with them have been removed, something he
15 anticipated would have already happened.

16 ***Jamal Cornelius***

17 173. Jamal Cornelius resides in Hercules, California.

18 174. Mr. Cornelius became interested in Heald College shortly after completing high
19 school, based on advertisements and recruitment promises that Heald programs would lead to a
20 rewarding and well-paid career in information technology. He enrolled in the Information
21 Technology-Emphasis in Network Security AAS program at Heald College's Concord,
22 California campus on July 22, 2013.

23 175. To finance his enrollment in Heald College, the school arranged for Mr. Cornelius
24 to take out a total of \$25,555 in federal student loans, \$6,375 in Federal Pell Grants, and
25 \$2,000.26 in private student loans originated through a proprietary Corinthian loan program.

26 176. In early 2015, Heald-Concord notified its students that it would be closing in short
27 order. On or around April 9, 2015, the school told Mr. Cornelius that he had completed his
28

1 program and issued him a diploma. Mr. Cornelius' Heald College transcript, which he
2 subsequently obtained from the California Bureau of Private Postsecondary Education, states that
3 Mr. Cornelius completed his program on April 9, 2015.

4 177. Mr. Cornelius tried and was unable to obtain a job in information technology and
5 currently works in a fast food restaurant.

6 178. During the summer of 2016, Mr. Cornelius received a letter from the Department
7 of Education, notifying him of its findings with respect to Heald's wrongful conduct and his
8 eligibility for borrower defense discharge of his federal student loans.

9 179. Mr. Cornelius is a member of the findings cohort identified by the Department for
10 the Information Technology-Emphasis in Network Security AAS program offered at Heald-
11 Concord. As listed in Exhibit A, this findings cohort includes those who attended this program
12 after July 1, 2010.

13 180. Shortly after receiving the Department's notice, Mr. Cornelius applied for a
14 borrower defense discharge, using the form that the Department included with the notification
15 letter, a copy of which is attached as Exhibit C.

16 181. Several months after his first application, Mr. Cornelius resubmitted his
17 application to the Department because he had not heard anything regarding his first submission.
18 The Department subsequently confirmed that it had received an application from Mr. Cornelius'
19 on August 24, 2016.

20 182. After Mr. Cornelius' federal loans went into repayment in late 2015, he began
21 making the demanded monthly payments of \$273.64 to the Department. Mr. Cornelius did not
22 request forbearance on his federal student loans when he first submitted his application for
23 discharge because he was concerned about the unpaid interest that would accumulate on his
24 loans while his application was under review.

25 183. However, the monthly payments represented a substantial hardship to Mr.
26 Cornelius, and in November 2017, after waiting more than 14 months for the Department to
27 review his application, he contacted the Department and his federal student loan servicer to
28

1 request administrative forbearance on his loans. The Department told Mr. Cornelius that it
2 would take six to eight weeks for it to notify his servicer that he was eligible for administrative
3 forbearance. The servicer told Mr. Cornelius that it could not place Mr. Cornelius in
4 administrative forbearance unless it first received approval from the Department, but that in the
5 interim it could offer him a less favorable forbearance program that would result in the
6 capitalization of unpaid interest.

7 184. The Department has yet to provide Mr. Cornelius with any notice of a decision on
8 his application for discharge of his federal student loans.

9 ***Rthwan Dobashi***

10 185. Rthwan Dobashi resides in San Jose, California. He is married, has two children,
11 and is expecting a third.

12 186. Mr. Dobashi became interested in attending an automotive program at WyoTech's
13 Fremont campus based on advertisements and recruitment promises of a rewarding and well-paid
14 career in the field. Before enrolling, Mr. Dobashi made it clear to WyoTech representatives that
15 he wanted a program focused on high-performance automobiles. WyoTech representatives told
16 him that he should enroll in two separate, consecutive programs in order to reach this goal.

17 187. Mr. Dobashi began an Applied Automotive Technology Diploma program at
18 WyoTech's Fremont, California campus on November 10, 2011 and completed the program on
19 February 27, 2013. Based on WyoTech's representations to him that he needed to attend a
20 second program to learn to work on high-performance engines, Mr. Dobashi began a second
21 diploma program at WyoTech-Fremont for Applied Automotive Technology-Advanced
22 Diagnostics on February 28, 2013 and completed it on July 22, 2013.

23 188. To finance Mr. Dobashi's enrollment in these two WyoTech programs, the school
24 arranged for him to take out a total of \$22,184 in federal student loans, \$11,100 in Federal Pell
25 Grants, and \$3,183.73 in private student loans originated through a proprietary Corinthian loan
26 program.

27 189. Mr. Dobashi tried and failed to find employment in the field of auto repair.
28

1 196. Named Plaintiffs Manriquez, Cornelius, and Dobashi file this action on behalf of
2 themselves and all other individuals similarly situated. They seek to represent a class consisting
3 of

4 all individuals who borrowed a Direct Loan to finance the cost of enrollment in a
5 program who are covered by the Department’s Corinthian Job Placement Rate
6 Rule, who have applied or will apply for a borrower defense, and who have not
7 been granted a discharge pursuant to the Rule.

8 197. For the purposes of this class definition, a borrower is “covered by the
9 Department’s Corinthian Job Placement Rate Rule” to the extent he or she attended a program
10 within the timeframe specified by the Department on the Heald findings list attached as Exhibit
11 A or the Everest/WyoTech findings list attached as Exhibit B.

12 198. The proposed class satisfies the requirements of Rule 23(a) of the Federal Rules
13 of Civil Procedure.

- 14 a. The class is so numerous that joinder of all members is impracticable. As
15 previously alleged, the Department has received but not processed over 45,000
16 claims for borrower defense discharge from former Corinthian students. A
17 substantial proportion of these applications—the precise figure is known only to
18 the Department—are from members of the proposed class, *i.e.*, individuals
19 covered by the Corinthian Job Placement Rate Rule. Tens of thousands of
20 individuals who are eligible for loan relief under the Corinthian Job Placement
21 Rate Rule have not, but may, submit a claim to the Department;
- 22 b. There are questions of law and fact common to the class, including without
23 limitation:
- 24 i. Whether the Department’s prior statements and actions concerning the
25 eligibility for borrower defense relief of certain Corinthian students
26 constitutes a rule within the meaning of the APA, or otherwise binds the
27 Department;
- 28

1 ii. Whether the Department may retroactively apply a different rule to
2 Corinthian borrower defense applications on which it has not granted
3 relief; and

4 iii. Whether the Department has unlawfully withheld or unreasonably delayed
5 processing claims of the Named Plaintiffs and members of the proposed
6 class under the Job Placement Rate Rule within the meaning of the APA;

7 c. The claims of Named Plaintiffs are typical of the claims of the proposed class.

8 They each borrowed Direct Loan(s) to finance enrollment in a career-training
9 program at a Corinthian-operated school. Named Plaintiffs, like members of the
10 proposed class, are intended beneficiaries of the Department's Corinthian Job
11 Placement Rate Rule. They have been identified for outreach by the Department
12 as members of a findings cohort. They, along with members of the proposed
13 class, are injured by the Department's unlawful, unreasonable, and arbitrary
14 abandonment of the Corinthian Job Placement Rate Rule;

15 d. The Named Plaintiffs are adequate representatives of the class because their
16 interests do not conflict with the interests of the Class they seek to represent; they
17 have retained counsel who are competent and experienced in APA and class
18 action litigation; and because they intend to prosecute this action vigorously.
19 Named Plaintiffs are represented by attorneys from Housing and Economic Rights
20 Advocates ("HERA") and the Project on Predatory Student Lending of the Legal
21 Services Center of Harvard Law School ("Project"). Together, attorneys from
22 HERA and the Project have represented and/or advised hundreds of former
23 Corinthian students regarding the borrower defense process. They have
24 knowledge of and familiarity with the relevant law and regulations concerning
25 federal student loans and borrower defense.

26 199. A class action is superior to other available means for the fair and efficient
27 adjudication of the claims of Named Plaintiffs and the class. Each class member has been
28

1 damaged and is entitled to recovery by reason of Defendants’ impermissible actions under the
2 APA.

3 200. A class action is appropriate under Federal Rule of Civil Procedure 23(b)(1). If
4 all members of the proposed class were to challenge the Defendant’s actions under the APA, it
5 would risk establishing incompatible standards of conduct for the Defendants, vis-à-vis the
6 handling of borrower defense claims.

7 201. This case is maintainable as a class action under Federal Rule of Civil Procedure
8 23(b)(2) because the Defendants’ action in abandoning the Corinthian Job Placement Rate Rule
9 applies generally to the class, such that final injunctive relief or corresponding declaratory relief
10 is appropriate with respect to the class as a whole.

11 **CAUSES OF ACTION**

12 **COUNT 1**

13 **Arbitrary, Capricious, and Unlawful Abandonment of the Corinthian Job**
14 **Placement Rate Rule—APA §706(2)**

15 202. Plaintiffs repeat and reallage the foregoing paragraphs as if fully set forth herein.

16 203. The Administrative Procedure Act provides that those “suffering legal wrong
17 because of agency action, or adversely affected or aggrieved by agency action” are entitled to
18 seek judicial review. 5 U.S.C. § 702.

19 204. Under section 706(2) of the APA, a reviwing court “shall...hold unlawful and set
20 aside agency action, findings, and conclusions found to be arbitrary, capricious, an abuse of
21 discretion, or otherwise not in accordance with law[.]” 5 U.S.C. § 706(2)(A). A court shall also
22 set aside agency action that is “in excess of statutory jurisdiction, authority, or limitations, or
23 short of statutory right[.]” *Id.* § 706(2)(C).

24 205. Without adequate explanation or justification, and without notice, the Department
25 abruptly halted its processing of claims under the Corinthian Job Placement Rate Rule. It has
26 decided that it can change course and not honor the Rule, notwithstanding its previous
27 determinations and actions, which include:

- 1 a. deciding that the borrower defense claims of former Corinthian students are
- 2 governed by California law;
- 3 b. deciding that evidence supports a cause of action under California law for cohorts
- 4 of borrowers;
- 5 c. identifying with specificity the cohorts of borrowers covered by its findings;
- 6 d. deciding that those borrowers covered by findings can supply all necessary
- 7 information to receive a borrower defense discharge on a simple 4-page form;
- 8 e. determining that the appropriate amount of relief for such borrowers under
- 9 California law is a full discharge and return of any money previously collected by
- 10 the Department;
- 11 f. notifying former Corinthian students of the availability and terms of the
- 12 discharge; providing spreadsheets identifying specific individuals who are
- 13 members of findings cohorts to attorneys general for the purposes of contacting
- 14 those individuals and facilitating their applications for borrower defense discharge;
- 15 and
- 16 g. granting approximately 25,000 such applications for discharge.

17 206. Since January 20, 2017, Defendants have not granted any borrower defense
18 discharges, even for individuals who followed the Department's invitation to submit a simple
19 attestation form establishing membership in a findings cohort. This fact, and other public
20 statements and actions, confirm that the Department has made the determination that it is not
21 bound by the Corinthian Job Placement Rate Rule.

22 207. This determination constitutes "final agency action" reviewable by this Court. 5
23 U.S.C. § 704.

24 208. This final agency action must be set aside under the APA, 5 U.S.C. § 706(2),
25 because it is arbitrary, capricious, an abuse of discretion, and otherwise not in accordance with
26 the law, and/or without observance of procedure required by law.

COUNT 2

Unlawful Retroactive Application of a Rule—APA §706(2)

209. Plaintiffs repeat and reallage the foregoing paragraphs as if fully set forth herein.

210. The Corinthian Job Placement Rate Rule is a “rule” within the meaning of the APA, 5 U.S.C. § 551(4).

211. By its terms, the Rule applies to Named Plaintiffs and members of the proposed class.

212. This Rule holds that Named Plaintiffs and members of the proposed class are eligible for a discharge pursuant to borrower defense upon providing the Department with a signed attestation form establishing that they are covered by the Department’s findings, and borrowed Direct Loans.

213. The Corinthian Job Placement Rate Rule further holds that the relief warranted is full discharge of related outstanding loans and a return of money collected by the Department on those loans.

214. The Department has provided or attempted to provide notice of the Rule, and procedures for securing a borrower defense discharge, to Named Plaintiffs and members of the proposed class, because the Department has determined that they are members of a cohort of borrowers covered by the Department’s findings.

215. Named Plaintiffs and members of the proposed class have applied, or will apply, for loan discharge under the process established by the Department for implementation of the Rule, which the Department notified or attempted to notify them of.

216. The Department has abandoned this Rule, and will not apply it to Named Plaintiffs and members of the proposed class. Instead, the Department will apply a different rule or rules to Named Plaintiffs and members of the proposed class.

217. The Department’s decision to abandon the Corinthian Job Placement Rate Rule upsets the reliance interest that the Department has created in Named Plaintiffs and members of

1 the proposed class that they will receive full cancellation of their loans upon submitting a signed
2 attestation form to the Department.

3 218. As such, the Department's departure from this rule must be set aside as violating
4 the APA, 5 U.S.C. §§706(2)(A) and (C). The Department cannot permissibly apply a different
5 rule to Named Plaintiffs and members of the proposed class. Application of a rule other than the
6 Corinthian Job Placement Rate Rule would constitute arbitrary and unlawful retroactive
7 rulemaking not authorized by statute.

8 **COUNT 3**

9 **Unlawfully Withheld Agency Action—APA §706(1)**

10 219. Plaintiffs repeat and reallege the foregoing paragraphs as if fully set forth herein.

11 220. Defendants have unlawfully withheld the application of the Corinthian Job
12 Placement Rate Rule to Named Plaintiffs and members of the proposed class in violation of the
13 APA, 5 U.S.C. § 706(1).

14 221. Application of the Corinthian Job Placement Rate Rule is straightforward and
15 mechanistic.

16 222. The Department does not have discretion to withhold the Rule's application from
17 Named Plaintiffs and members of the proposed class who have submitted, or will submit,
18 applications according to the process that the Department established.

19 223. The Department has already exercised its discretion in making findings about
20 Corinthian job placement rate misrepresentations, establishing findings cohorts, and determining
21 that the signed borrower defense applications of Named Plaintiffs and members of the proposed
22 class are:

- 23 a. Governed by California law;
- 24 b. Sufficient to state a claim under California law;
- 25 c. Sufficient to establish a defense to repayment;
- 26 d. Sufficient to warrant full loan cancellation and a return of any money collected by
27 the Department in payment of those loans.

1 224. In light of these findings, the Department is unlawfully withholding the Rule, and
 2 therefore relief, from Named Plaintiffs and members of the proposed class, in pursuit of an
 3 unlawfully undertaken “regulatory reset.”

4 225. The Court should compel the Department to process the applications of Named
 5 Plaintiffs and members of the proposed class according to the Corinthian Job Placement Rate
 6 Rule.

7 **COUNT 4**

8 **Unreasonably Delayed Agency Action—APA §706(1)**

9 226. Plaintiffs repeat and reallage the foregoing paragraphs as if fully set forth herein.

10 227. Defendants have violated the APA, 5 U.S.C. § 706(1) because they have
 11 unreasonably delayed processing the claims of Named Plaintiffs and members of the proposed
 12 class.

13 228. Pursuant to the APA, a court “shall [] compel agency action unlawfully withheld
 14 or unreasonably delayed.” 5 U.S.C. § 706(1).

15 229. The Department’s delay in processing the applications of Named Plaintiffs, and
 16 members of the proposed class, is unreasonable in light of the Department’s demonstrated ability
 17 to process claims under the Corinthian Job Placment Rate Rule.

18 230. Between June 30, 2016 and October 12, 2016, the Department approved 11,822
 19 claims pursuant to the Corinthian Job Placement Rate Rule. The Department approved more
 20 than 10,000 additional claims pursuant to the Rule by January 20, 2017.

21 231. The Department estimated in October 2016 that it could clear the existing backlog
 22 of cases by Spring 2017.

23 232. Since January 20, 2017, the Department has approved zero claims pursuant to the
 24 Corinthian Job Placement Rate Rule.

25 233. Despite a growing backlog of claims that, as of November 2017, approached
 26 100,000, the Department has drastically decreased the amount of staff and resources devoted to
 27 the processing of borrower defense claims since January 20, 2017.

1 234. The Department has not brought to conclusion the applications presented to it
2 within a reasonable time, as required by the APA, 5 U.S.C. § 555(b).

3 235. Defendants' inaction and delay has harmed Named Plaintiffs and members of the
4 proposed class.

5 **PRAYER FOR RELIEF**

6 WHEREFORE, Plaintiffs respectfully request that this Court enter a judgment in their favor and
7 grant the following relief:

- 8 A. Certify the class as defined in paragraph 196 pursuant to Rule 23 of the Federal Rules
9 of Civil Procedure;
 - 10 B. Declare that the Department's delay in processing the borrower defense claims
11 submitted by members of the class is unreasonable;
 - 12 C. Declare that the Department has unlawfully withheld the application of the Corinthian
13 Job Placement Rate Rule to the borrower defense applications submitted by members
14 of the class;
 - 15 D. Declare that the Department may not retroactively apply a rule other than the
16 Corinthian Job Placement Rate Rule to borrower defense applications submitted by
17 members of the class;
 - 18 E. Set aside the Department's decision to abandon the Corinthian Job Placement Rate
19 Rule;
 - 20 F. Order the Department to apply the Corinthian Job Placement Rate Rule to
21 applications for borrower defense relief submitted by members of the class;
 - 22 G. Compel the Department immediately to process applications and grant discharges to
23 members of the class pursuant to the Corinthian Job Placement Rate Rule;
 - 24 H. Award reasonable costs and attorneys' fees as authorized by law; and
 - 25 I. Grant such further relief as may be just and proper.
- 26
27
28

1 Dated: December 20, 2017

2 Respectfully submitted,

3
4 /s/ _____
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23 **application for admission pro hac vice*
24 *forthcoming*