



CJ-2020-2383

FILED IN DISTRICT COURT
OKLAHOMA COUNTY

MAY 22 2020

RICK WARREN
COURT CLERK

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IN THE DISTRICT COURT IN AND FOR OKLAHOMA COUNTY
STATE OF OKLAHOMA

Christopher Eric Knox, on behalf of)
himself and other similarly situated)
)
Plaintiff,)
)
vs.)
)
OKLAHOMA STATE REGENTS)
FOR HIGHER EDUCATION,)
)
Defendant.)

Case No. **CJ-2020-2383**

Judge

CLASS ACTION PETITION

Plaintiff, Christopher Eric Knox ("Plaintiff"), individually and on behalf of all others similarly situated (collectively, the "Class," as more fully defined below), brings this class action complaint against Defendant Oklahoma State Regents for Higher Education ("Oklahoma Regents" or "Defendant"). Plaintiff makes the following allegations upon personal knowledge as to Plaintiff's own acts, and upon information and belief and Plaintiff's attorneys' investigation as to all other matters, alleging as follows:

I. NATURE OF THE ACTION

1. This is a class action brought on behalf of all people who paid fees to cover the costs of services and/or activities (Mandatory/Course Related Fees, Academic Excellence Fees, Academic Services Fees, Campus Infrastructure Fees, College Technology and Program Fees, Miscellaneous Course Fees, Connectivity Fees, Assessment Fees, Library Fees, Facility Fees, Activity Fees, Transit Fees, Special Event Fees, Academic Facility and Life Safety Fees, International Programs Fees, Records Fees, Health Fees, Cultural and Recreational Service Fees, Academic Advising Fees, Student Development Fees, Room and Board, and other fees) for the

Spring 2020 academic semester at the twenty-five colleges and universities overseen by Oklahoma Regents (collectively, the “Universities”)¹ and who, because of Oklahoma Regents’ and the Universities’ response and policies relating to the Novel Coronavirus Disease 2019 (“COVID-19”) pandemic, lost the benefits of the services and activities for which their fees were paid, without having the full, prorated amount of those fees refunded to them.

2. In or around March 2020, Oklahoma Regents and the Universities announced that because of the global COVID-19 pandemic, the Universities would transition all Classes to an online format. Students who lived on campus were either forced or encouraged to move out of their on-campus housing.

3. In addition to moving all classes to an online format, the Universities shut down most on-campus services and stopped providing the services and activities for which Plaintiff and the other Class members paid fees.

4. For all practical purposes, students had to leave campus, sacrificing the fees they paid to be on campus and for the services that come with being on campus. Even for those students who had no choice but to remain on campus, campus services were essentially shut down and they could not receive the benefit for which their fees for the semester paid.

¹ The Universities include: (1) two research universities: Oklahoma State University and University of Oklahoma; (2) ten regional universities: Cameron University, East Central University, Langston University, Northeastern State University, Oklahoma Panhandle State University, Rogers State University, Southeastern Oklahoma State University, Southwestern Oklahoma State University, and University of Central Oklahoma; (3) one public liberal arts university: University of Science and Arts of Oklahoma; and (4) 12 community colleges: Carl Albert State College, Connors State College, Eastern Oklahoma State College, Murray State College, Northeastern Oklahoma A&M College, Northern Oklahoma College, Oklahoma City Community College, Redlands Community College, Rose State College, Seminole State College, Tulsa Community College, and Western Oklahoma State College. *See* Oklahoma State Regents for Higher Education, State System Overview: A Guide to the History, Organization, and Operation of the State System, available at <https://www.okhighered.org/state-system/overview/part1.shtml> (last accessed May 20, 2020).

5. Despite ending on-campus services and activities for the rest of the Spring 2020 semester and effectively closing dorms and ending meal plan service, Oklahoma Regents has refused to refund to students and their families the unused portions of the fees that they each paid to cover the costs of the services and activities, which are no longer available to students. To the extent that Oklahoma Regents has offered any refunds—*e.g.*, in the case of University of Central Oklahoma, which offered limited, partial adjustments of room and board charges to *some* students—those refunds have been a mere fraction of what Oklahoma Regents actually owes Plaintiff and the other Class members for the unused (and unusable) portions of these fees that they paid for services that Oklahoma Regents and the Universities have discontinued.

6. Other higher education institutions across the United States that also have switched to e-learning and have requested or permitted students to leave campus have recognized the upheaval and financial harm to students and their families from these decisions and have provided appropriate refunds. These institutions recognize that because they are unable to provide the full slate of services for which the students paid, the institutions have no legal or ethical basis to retain the students' money. Oklahoma Regents, unfortunately, has taken the opposite approach as it relates to the fees charged by the Universities.

7. Rather than providing full and fair refunds, Oklahoma Regents, chose to offer only limited credits for room and board to *some* students at *some* of the Universities, or has offered or announced no refunds at all and, in all cases, has refused to refund *any* fees other than room and board. The refunds have been inconsistent and incomplete.

8. Accordingly, Oklahoma Regents has improperly retained monies that Plaintiff and the other Class Members paid for services that the Universities are no longer providing.

9. Even if Oklahoma Regents claims that it had no choice, or that students could risk their health and decide whether to remain on their campuses, it nevertheless has improperly retained funds for services and activities that it is not providing. No matter the excuse, Oklahoma Regents' actions are unlawful and unfair, and both law and equity demand disgorgement of the fees and monies paid.

10. Plaintiff, individually and on behalf of the other Class members, brings this class action for injunctive, declaratory, and equitable relief, damages, and any other available remedies, resulting from Oklahoma Regents' improper conduct.

11. In addition to other remedies that may be available, this lawsuit seeks disgorgement of the pro-rated, unused amounts of fees that Plaintiff and the other Class members paid, but for which they (or the students on behalf of whom they paid) will not be provided the benefit.

II. PARTIES

A. *Plaintiff*

12. Christopher Eric Knox is a citizen of Oklahoma. He is the parent of a University of Oklahoma ("OU") student who paid fees on behalf of his son for the Spring 2020 semester at OU, the benefits of which Plaintiff and his son will no longer receive. Plaintiff has not been offered a sufficient refund of the fees paid for the Spring 2020 semester.

B. *Defendant*

13. Oklahoma Regents is the coordinating board for the 25 Universities in the State System of Higher Education. Oklahoma Regents prescribes academic standards of higher education, determines functions and courses of study at state colleges and universities, grants degrees, and approves each public college's and university's allocations, as well as tuition and

fees within the limits set by the Oklahoma Legislature. Oklahoma Regents has its principal place of business at 655 Research Parkway, Suite 200, Oklahoma City, Oklahoma 73104.

III. JURISDICTION AND VENUE

14. This Court has personal jurisdiction over Defendant because it is a citizen of Oklahoma and committed its wrongful acts and omissions in Oklahoma.

15. Venue is proper in this County pursuant to 12 OK Stat. § 12-1653(B) (2014), because this case involves an individual defendant who resides in this County and may be served with summons in this County.

IV. FACTUAL ALLEGATIONS

A. *Plaintiff and the Other Class Members Paid the Costs of Fees for the Spring 2020 Semester*

16. Plaintiff and the other Class members are people who paid the cost of various fees for the Spring 2020 semester at the Universities.

17. Spring semester classes at each of the Universities began in or around January 2020 and were scheduled to end in or around May 2020.

18. Plaintiff and the other Class members paid the cost of fees for the Spring 2020 semester. These fees included various campus fees and the cost of room and board.

19. Plaintiff paid \$4,296.25 for Mandatory/Course Related Fees on behalf of his son for the Spring 2020 semester at OU. He also paid \$2,885 for room and board on behalf of his son for the Spring 2020 semester of OU

20. By way of example only, fees for the Spring 2020 semester at Oklahoma State University ("OSU"), which may vary by class year, campus, course of study, residency, and other factors include:

- i. Student Activity Fee – Athl: \$5.50

- ii. Student Activity Fee – Genl: \$2.50
- iii. Student Facility Fee, General: \$5.45
- iv. Student Facility Fee, Campus Rec: \$3.00
- v. Student Development Fee: \$2.20
- vi. Health services Fee: \$5.00
- vii. Advising and Assessment Fee: \$10.85
- viii. Library Automation & Technology Fee: \$17.00
- ix. University Technology Infrastructure Maintenance Fee: \$11.65
- x. Academic Facilities Fee: \$24.65
- xi. Daily O'Collegian Fee: \$0.30
- xii. Transit/Parking services Fee: \$2.50
- xiii. Life Safety & Security Fee: \$6.45
- xiv. Academic Excellence Fee: \$15.50
- xv. Student Union Renovation Fee: \$5.15
- xvi. Academic Service Fees, including tech fees, program fees, and infrastructure fees, ranging from \$2.00 to \$138
- xvii. New Student Orientation and Enrollment Fee: \$75
- xviii. International Student Status/Maint. Fee: \$60
- xix. Health Risk Assessment Fee: \$20
- xx. Late Enrollment Fee: \$100
- xxi. Online Outreach Fees, ranging from \$95 to \$100
- xxii. On campus Housing (cost varies per semester)
- xxiii. Meal plans (cost vary per semester, e.g., the Platinum Plan costs \$2,275 per semester)

21. In return for these payments, Oklahoma Regents agreed to provide the services or activities that each fee was intended to cover.

22. The fees listed and described in the paragraphs above are provided by way of example; total damages amounts, which may include other fees that are not listed herein, but that were not refunded, will be proven at trial. The fees for which this action seeks relief do not presently include tuition costs.

B. *In Response to COVID-19, Oklahoma Regents Shuttles its Campuses, But Does Not Provide Students Adequate Fee Refunds.*

23. Beginning in January 2020, COVID-19 began presenting American cities and universities with an unprecedented, modern-day challenge: maintaining the fabric of our economy and communities while protecting American lives.

24. By March 2020, several U.S. cities, states, and municipalities were calling for social distancing to slow the spread of COVID-19. Eventually, some cities, states, and municipalities ordered citizens and residents to “shelter-at-home,” effectively requiring them to stay home, other than to receive essential services. Mayors in major cities across Oklahoma, including cities that are home to Universities, ordered all residents to stay home. As Mayor David Holt of Oklahoma City put it, “We want to leave no doubt. The safest course of action during this public health crisis is to stay home.”²

25. In January 2020, Oklahoma Regents began taking note of the pandemic. In January, it issued several travel advisories, limiting travel to certain high-risk areas around the globe by members of the Universities’ communities.

26. On March 15, 2020, while spring break was in session, it was announced that a member of OU’s Normal campus had tested positive for COVID-19. OU announced that all

² See City of Oklahoma City, ‘Shelter in Place’ order to be issued in Oklahoma City as COVID-19 state of emergency declared (Mar. 28, 2020), available at <https://www.okc.gov/Home/Components/News/News/3321/18>.

“non-essential” campus faculty and staff are not to report to work.³ It also encouraged all students who departed for spring break and are able to remain away from campus, not to return.⁴

27. Throughout March 2020, as the situation escalated, Oklahoma Regents and the Universities took a series of steps to shut down campuses, transition all classes to an online-remote format and require or encourage students to stay home. For example, on March 12, 2020, the OU Athletics Department announced that it was suspending all athletic competitions, as well as all out-of-season practices and workouts, until further notice. On March 18, 2020, OU announced that all classes at the Norman campus would remain online for the remainder of the Spring 2020 semester.⁵

28. Throughout March 2020, campus activities, services, and dorms at the other Universities also shut down. Classes at the other Universities also moved to a remote format. Almost all students were forced to leave campus or chose to do so because there was no point in remaining on campus or continuing to come to campus to receive services and partake in activities that were no longer being offered.

29. To the extent students had to stay on campus, campus services were closed and no longer available.

30. While social distancing is recommended by healthcare professionals and even the CDC, the resulting impact to the economy—and individual families’ wallets—cannot be

³ See OU Announcement, available at http://www.ou.edu/web/news_events/articles/news_2020/norman-campus-update-march-15 (Mar. 15, 2020). On March 20, 2020, a second case was announced. See letter to OU Community, available at http://www.ou.edu/web/news_events/articles/university-update-covid19-mar20 (last accessed May 20, 2020)

⁴ See Norman Campus Update, available at http://www.ou.edu/web/news_events/articles/news_2020/norman-campus-update-march-15 (last accessed May 20, 2020).

⁵ See Update from Interim President Harroz, available at http://www.ou.edu/web/news_events/articles/news_2020/update-from-interim-president-harroz-mar18 (last accessed May 20, 2020).

understated.⁶ Rather than acknowledge the difficult financial stresses that COVID-19 has placed on families, students and their families at the Universities were expected to bear the brunt of the cost.

31. Oklahoma Regents has not offered adequate refunds of students' fees. While some of the Universities have announced prorated refunds of room and board only, the refunds are inadequate in that they do not provide a full, prorated refund of the amount remaining in the semester, or because they provide only credits for future use, not a refund, or because there are strings attached to their receipt which make it such that not all students can enjoy the refunds. Other of the Universities have not announced refunds at all.

32. Aside from the insufficient refunds and credits some of the Universities are offering for Spring 2020 room and board payments, Oklahoma Regents has refused to provide *any* refund of the campus fees that Plaintiff and the other Class members paid for the Spring 2020 semester that were unused or for which they had not received a benefit.

33. Oklahoma Regents has retained the value of monies paid by Plaintiff and the other Class members for room, board, and other campus fees, while failing to provide the services and activities for which those fees were paid.

34. The Federal Government has also responded to the COVID-19 pandemic in ways that benefit Oklahoma Regents and help cover the costs associated with the disruption. Specifically, \$14 billion of stimulus funds have been set aside to aid institutions of higher

⁶ Heather Long and Alyssa Flowers, A record 3.3 million Americans filed for unemployment benefits as the coronavirus slams economy, Washington Post (Mar. 26, 2020), <https://www.washingtonpost.com/business/2020/03/26/unemployment-claims-coronavirus-3-million/>; In just three days, Oklahoma's new unemployment filings have tripled last week's total, Tulsa World (Mar. 20, 2020), https://www.tulsaworld.com/news/state-and-regional/in-just-three-days-oklahomas-new-unemployment-filings-have-tripled-last-weeks-total/article_9a915f38-cf3e-55fe-8774-e9cc4e9517f3.html.

education. On information and belief, Oklahoma Regents will receive more than \$16 million for OSU and more than \$17 million for OU.

35. Class members have demanded that Oklahoma Regents or the Universities return the unused amounts of monies that they paid for room, board, and other campus fees, through a number of channels, including through online forums. Oklahoma Regents has ignored or rejected each such request, sticking to its policies as outlined herein.

36. Through this lawsuit, Plaintiff, individually and on behalf of the other Class members, seeks entry of an Order requiring Defendant's disgorgement of the pro-rated, unused portion of fees, proportionate to the amount of time that remained in the Spring 2020 semester when classes moved online and campus services and activities ceased being provided (or students could safely come to campus to partake in those services and activities), and all other remedies as may be appropriate.

V. CLASS ACTION ALLEGATIONS

37. Plaintiff brings this case individually and, pursuant to 12 OK Stat. § 2023, for equitable relief, disgorgement, and other damages on behalf of a Class, defined as:

All people—whether students, or their parents or guardians—who paid fees (including but not limited to campus fees, room, board, parking, and other fees as broadly defined herein) for or on behalf of students enrolled in classes at any of the 25 colleges and universities overseen by Oklahoma Regents for the Spring 2020 semester (the "Class").

38. Excluded from the Class are Oklahoma Regents and any of its respective members, affiliates, parents, subsidiaries, officers, directors, employees, successors, or assigns; the judicial officers, and their immediate family members; and Court staff assigned to this case. Plaintiff reserves the right to modify or amend the Class definition, as appropriate, during the course of this litigation.

39. This action has been brought and may properly be maintained on behalf of the Class proposed herein under the criteria of 12 OK Stat. § 2023.

40. **Numerosity.** The members of the Class are so numerous and geographically dispersed that individual joinder of all Class members is impracticable. The precise number of Class members is unknown to Plaintiff, but may be ascertained from Defendant's records and, based upon publicly available information, is presumed to be not less than 200,000 people. Class members may be notified of the pendency of this action by recognized, Court-approved, notice dissemination methods, which may include U.S. Mail, electronic mail, Internet postings, and/or published notice.

41. **Commonality; Predominance.** This action involves questions of law and fact common to the Class, which predominate over any individual questions, including, without limitation:

- a. Whether Defendant engaged in the conduct alleged herein;
- b. Whether Defendant breached its contracts with Plaintiff and the other Class members by retaining fees without providing the services and activities which the fees were intended to cover;
- c. Whether Defendant was unjustly enriched by retaining fees of Plaintiff and other Class members without providing the services and activities that the fees were intended to cover;
- d. Whether certification of the Class is appropriate under 12 OK Stat. § 2023;
- e. Whether Class members are entitled to declaratory, equitable, or injunctive relief, and/or other relief; and

f. The amount and nature of relief to be awarded to Plaintiff and the other Class members.

42. **Typicality.** Plaintiff's claims are typical of the other Class members' claims because Plaintiff and the other Class members each paid fees associated with the Spring 2020 semester at the Universities but were not provided the services and activities that those fees were meant to cover. Plaintiff and the other Class members suffered damages—namely, the loss of their fees and monies paid—as a direct and proximate result of the same wrongful conduct in which Defendant engaged. Plaintiff's claims arise from the same practices and course of conduct that give rise to the other Class members' claims.

43. **Adequacy of Representation.** Plaintiff is an adequate Class representative because Plaintiff's interests do not conflict with the interests of the other members of the Class who plaintiff seeks to represent, Plaintiff has retained counsel competent and experienced in complex class action litigation, and Plaintiff intends to prosecute this action vigorously. Class members' interests will be fairly and adequately protected by Plaintiff and his counsel.

44. **Declaratory and Injunctive Relief.** Defendant has acted or refused to act on grounds generally applicable to Plaintiff and the other Class members, thereby making appropriate final injunctive relief and declaratory relief, as described below, with respect to the Class members as a whole.

VI. CLAIMS ALLEGED

FIRST CLAIM FOR RELIEF

Breach of Contract

45. Plaintiff repeats and alleges the allegations in Paragraphs 1-44, above, as if fully alleged herein.

46. Plaintiff brings this claim individually and on behalf of the other Class members.

47. Plaintiff and the other Class members entered into contracts with or for the benefit of Oklahoma Regents, which provided that Plaintiff and the other Class members would pay fees for or on behalf of students, and in exchange, Oklahoma Regents would provide services and make available activities to students.

48. Plaintiff and the other Class members fulfilled their end of the bargain when they paid the fees for the Spring 2020 semester.

49. Oklahoma Regents breached the contracts when it moved classes online and stopped providing services and activities for which the fees were intended to pay but retained monies paid by Plaintiff and the other Class members, without providing them the benefit of their bargain.

50. Plaintiff and the other Class members have been damaged—in an amount to be proven at trial—in that they have been deprived of the value of the services and activities the fees they paid were intended to cover, while Oklahoma Regents retained those fees.

SECOND CLAIM FOR RELIEF

Unjust Enrichment

51. Plaintiff repeats and alleges the allegations in Paragraphs 1-44. above, as if fully alleged herein.

52. Plaintiff brings this claim individually and on behalf of the other Class members, and in the alternative to the breach of contract claim (First Claim for Relief), set forth above.

53. Plaintiff and the other Class members paid fees for or on behalf of students, which were intended to cover services and activities for the Spring 2020 semester. In exchange, students were entitled to receive those services and activities for the entire semester.

54. In March 2020, Oklahoma Regents moved classes online and stopped providing services and activities the fees were intended to cover.

55. Oklahoma Regents has retained fees paid by Plaintiff and the other Class members, without providing the services and activities for which they paid and, as such, has been enriched.

56. Oklahoma Regents has been unjustly enriched by retaining the fees paid by Plaintiff and the other Class members for the semester while not providing services and activities for which those fees paid. Equity requires Oklahoma Regents to return the unused, prorated portion of the fees paid by Plaintiff and the other Class members.

VII. REQUEST FOR RELIEF

Plaintiff, individually and on behalf of the other Class members, respectfully requests that the Court enter judgment in their favor and against Defendant as follows:

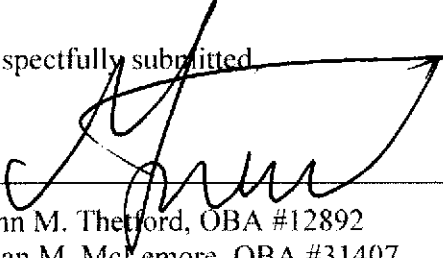
- a. Certifying the Class as requested herein, designating Plaintiff as class representative, and appointing the undersigned counsel as Class Counsel;
- b. Declaring that Defendant is financially responsible for notifying the Class members of the pendency of this suit;
- c. Declaring that Defendant has wrongfully kept the monies paid for fees;
- d. Disgorging the fees that Plaintiff and the other Class members paid, in an amount to be proven at trial;
- e. Awarding injunctive relief as permitted by law or equity, including enjoining Defendant from retaining the pro-rated, unused portion of monies paid for fees by Plaintiff and the other Class members;
- f. Awarding Plaintiff's reasonable attorneys' fees, costs, and expenses;
- g. Awarding pre- and post-judgment interest on any amounts awarded; and
- h. Awarding such other and further relief as may be just and proper.

VIII. JURY TRIAL DEMANDED

Plaintiff demands a trial by jury on all causes of action so triable.

Dated: May 22, 2020

Respectfully submitted



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**Pro hac vice motions to be filed*

Counsel for Plaintiff and the Proposed Class