

NOTICE OF PROPOSED CLASS ACTION SETTLEMENT

Ninivaggi et al. v. University of Delaware, 20-cv-1478-SB
Russo v. University of Delaware, 1:20-cv-01693-SB
Griffin v. University of Delaware, 1:23-cv-00385
(United States District Court for the District of Delaware)

For more information, visit www.UDSettlement.com.

PLEASE READ THIS NOTICE CAREFULLY. IF YOU ATTENDED THE UNIVERSITY OF DELAWARE DURING THE SPRING 2020 SEMESTER, YOU MAY BE ELIGIBLE TO RECEIVE CASH COMPENSATION FROM A CLASS ACTION SETTLEMENT. THIS NOTICE EXPLAINS YOUR RIGHTS AND OPTIONS AND THE DEADLINES TO EXERCISE THEM.

The United States District Court for the District of Delaware authorized this Notice. You are not being sued. This is not a solicitation from a lawyer.

WHY DID I GET THIS NOTICE?

- A Settlement has been reached in a class action lawsuit between Defendant The University of Delaware (“Defendant” or “UD”) and certain individuals who have alleged that they and the Settlement Class Members,¹ are entitled to partial refunds of tuition and fees for the Spring 2020 Semester because UD transitioned to remote learning in March 2020 amid the COVID-19 pandemic. The case is *Ninivaggi v. University of Delaware, 20-cv-1478-SB*, in the United States District Court for the District of Delaware (the “Lawsuit”). The proposed Settlement is not an admission of wrongdoing by UD, and UD denies all allegations of wrongdoing and disclaims all liability with regard to all claims in the Lawsuit. The Court has granted Preliminary Approval of the Settlement and has conditionally certified the Settlement Class for purposes of settlement only.
- You are a member of the Settlement Class if you were a UD undergraduate or graduate student for whom any amount of tuition and fees was paid from any source (e.g., the student’s own funds, funding from a parent or other family member, loan, or non-UD scholarship) to UD for the Spring 2020 Semester, and whose tuition and fees have not been refunded in their entirety. You are not a Settlement Class Member if you opt out of the Settlement, or if you received a full scholarship from UD for the Spring 2020 Semester.
- Under the Settlement Agreement, UD will pay \$6.3 million. Some of that will go to Class Counsel for attorneys’ fees and expenses, class representative service awards, and the costs of administering the Settlement. What remains of the \$6.3 million will be divided equally among the approximately 21,000 Settlement Class Members. Settlement Class Members will not need to take any action to receive their shares of the payment. Settlement Class Members will automatically receive their shares by check mailed to the Settlement Class Member’s last known mailing address. Alternatively, if they prefer to receive their share by Venmo or PayPal, or update their mailing address for mailing of a check, they may visit the Settlement website to complete an Election Form to provide their check, Venmo, or PayPal information.

¹ Definitions for terms used herein can be found in the Settlement Agreement available at www.UDSettlement.com.

YOUR LEGAL RIGHTS AND OPTIONS IN THIS SETTLEMENT

DO NOTHING	Settlement Class Members who do nothing automatically receive a payment by check to the student's last known mailing address as reflected in UD's records after the Effective Date of the Settlement Agreement. You will give up any rights you may have to sue UD about the issues in this case.
CHANGE YOUR PAYMENT OPTIONS	Settlement Class Members may visit www.UDSettlement.com to (a) provide an updated address for sending a check or (b) elect to receive the Cash Award by Venmo or PayPal instead of a paper check. Settlement Class Members may also submit this information to the Settlement Administrator by mail at PO Box 2058, Portland, OR 97208-2058.
EXCLUDE YOURSELF	You will not receive your Cash Award, but you will retain any rights you have to sue UD about the issues in this case.
OBJECT	Write to the Court postmarked by no later than September 19, 2023 explaining why you don't like the Settlement. If the Court approves the Settlement, you will be bound by the Court's decision and the Settlement Agreement.
ATTEND A HEARING	Ask to speak in Court about the fairness of the Settlement.

These rights and options—and the deadlines to exercise them—are explained in this Notice. Please review this Notice carefully.

The Court presiding over this case still has to decide whether to approve the Settlement. The Cash Award made available by this Settlement will be provided only if the Court approves the Settlement and after any issues with the Settlement are resolved. Please be patient.

WHAT IS THIS LAWSUIT ABOUT?

The lawsuit alleges that students who attended UD for the Spring 2020 Semester are entitled to partial refunds of tuition and fees because UD transitioned to remote learning in March 2020 amid the COVID-19 pandemic. UD denies each and every allegation of wrongdoing, liability, and damages asserted, and UD denies that the claims in the Lawsuit would be appropriate for class treatment if the litigation proceeded through trial.

The Plaintiffs' Amended Complaint, the Settlement Agreement, and other case-related documents are available on the Settlement website, accessible at www.UDSettlement.com.

WHY IS THIS A CLASS ACTION?

A class action is a lawsuit in which one or more persons called a "Class Representative" sues on behalf of people with similar claims. These people together are a "Settlement Class" or "Settlement Class Members." The Settlement, if finally approved by the Court, resolves the issues for all Settlement Class Members, except for those who exclude themselves from the Settlement Class.

WHY IS THERE A SETTLEMENT?

The Plaintiffs and UD have determined that it is in their best interests to settle to avoid the expenses and uncertainties associated with continued litigation. This Settlement resolves all claims asserted in the case against UD and its affiliated persons and entities. The Plaintiffs and the attorneys for the Settlement Class believe the proposed Settlement is in the best interests of the Settlement Class. The Settlement is not an admission of wrongdoing by UD and does not imply that there has been, or would be, any finding that UD violated any law if the case were to move forward. UD denies each and every allegation of wrongdoing and liability in the Lawsuit. The Court did not reach a decision on the merits of the Lawsuit. The Court has preliminarily approved the Settlement and ordered that this Notice be provided to explain it. Nevertheless, because the settlement of a class action determines the rights of all members of the class, the Court overseeing this lawsuit must give final approval to the Settlement before it can be effective. The Court has conditionally certified the Settlement Class for settlement purposes only, so that Settlement Class Members receive this Notice and have the opportunity to exclude themselves from the Settlement Class or to voice their support for or opposition to final approval of the Settlement. If the Court does not give final approval to the Settlement, or if it is terminated by the Parties, the Settlement will be void, and the Lawsuit will proceed as if there had been no Settlement and no certification of the Settlement Class.

WHO IS IN THE SETTLEMENT CLASS?

You are a member of the Settlement Class if you were a UD undergraduate or graduate student for whom any amount of tuition and fees was paid from any source (e.g., the student's own funds, funding from a parent or other family member, loan, or non-UD scholarship) to Defendant for the Spring 2020 Semester, and whose tuition and fees have not been refunded in their entirety. Excluded from the Settlement Class are (1) any Judge or Magistrate Judge presiding over this Action and members of their families; (2) the Defendant, Defendant's subsidiaries, parent companies, successors, predecessors, and any entity in which the Defendant or its parents have a controlling interest and their current or former officers, directors, agents, and attorneys; (3) persons who properly execute and file a timely request for exclusion from the class; (4) the legal representatives, successors, or assigns of any such excluded persons; and (5) UD undergraduate or graduate students that received a full UD scholarship for the Spring 2020 Semester.

WHAT ARE MY OPTIONS?

(1) Receive Payment by Check or Elect to Have Your Payment Made Electronically.

The \$6.3 million Settlement Fund—minus any attorneys' fees for Class Counsel (addressed below), service awards for the named Plaintiffs of up to \$5,000 each, and the costs of administering the Settlement—will be divided on a *pro rata* basis among all Settlement Class Members. You will not need to take any action to receive your share of the Settlement Fund. Settlement Class Members will automatically receive their shares by check mailed to the Settlement Class Member's last known mailing address as reflected in UD's records. Alternatively, if they prefer to receive their share by Venmo or PayPal, they may visit the Settlement website to provide their Venmo or PayPal information, or they may provide that information to the Settlement Administrator by mail at the address below. If any Settlement Class Members fail to cash their Cash Award checks, those monies from uncashed checks will be deposited in the University of Delaware's Student Crisis Reserve for the purpose of providing additional student aid.

(2) Exclude Yourself ("Opt Out" of the Settlement).

You may exclude yourself from the Settlement. If you do so, you will not receive a share of the Settlement Fund. You will not release any claims you may have against UD and the Released Parties (as that term is defined in the Settlement Agreement, available for review at www.UDSettlement.com), and you will be free to pursue whatever legal rights you may have by pursuing your own lawsuit against the Released Parties at your own risk and expense. To exclude yourself from the Settlement, you must mail a timely letter to the Settlement Administrator at PO Box 2058, Portland, OR 97208-2058, postmarked by **September 19, 2023**. Your request to be excluded from the Settlement must be personally signed by you and contain a statement that indicates your desire to be excluded from the Settlement Class in *Ninivaggi v. University of Delaware*. The request should also include your full name, address, telephone number(s), and the case name *Ninivaggi v. University of Delaware*, Case No. 20-cv-1478-SB in the United States District Court for the District of Delaware.

You cannot ask to be excluded by phone or on the Settlement website. You may opt out of the Settlement Class only for yourself; one may not purport to opt others out of the Settlement Class on a class or representative basis.

(3) Object to the Settlement.

If you are a Settlement Class Member (and do not exclude yourself from the Settlement Class), you can object to any part of the Settlement. You can ask the Court to deny approval of the proposed Settlement by filing an objection. You cannot ask the Court to order a larger settlement; the Court can only approve or deny the Settlement. If the Court denies approval, the benefits for Settlement Class Members described herein will not be provided and the lawsuit will continue. To object, you must timely present the objection in writing to the Settlement Administrator or directly to the Court and personally sign the objection. Your objection must include (1) your name and address; (2) an explanation of the basis upon which you claim to be a Settlement Class Member; (3) all grounds for the objection, including all citations to legal authority and evidence supporting the objection; (4) the name and contact information of any and all attorneys representing, advising, or in any way assisting you in connection with the preparation or submission of the objection or who may profit from the pursuit of the objection (the "Objecting Attorneys"); and (5) a statement indicating whether you intend to appear at the Final Approval Hearing (either personally or through counsel who files an appearance with the Court in accordance with the Local Rules).

IF YOU DO NOT TIMELY AND VALIDLY MAKE YOUR OBJECTION, YOU WILL BE DEEMED TO HAVE WAIVED ALL OBJECTIONS AND WILL NOT BE ENTITLED TO SPEAK AT THE FINAL APPROVAL HEARING.

If you file and serve a written objection and statement of intent to appear, you may appear at the Final Approval Hearing, either in person or through your personal counsel hired at your own expense, to object to the fairness, reasonableness, or adequacy of the Settlement.

If you wish to object, you must file your objection with the Settlement Administrator or the Court (using the Court's electronic filing system or in any manner in which the Court accepts filings) no later than **September 19, 2023**. You must also send a copy of your objection by mail, hand, or overnight delivery service, or by operation of the Court's CM/ECF system, to the attorneys representing the Plaintiffs and the Settlement Class (specifically Joshua D. Arisohn of Bursor & Fisher, P.A., 1330 Avenue of the Americas, New York, NY 10019) and the attorneys representing the University of Delaware (specifically James D. Taylor, Jr. of Saul Ewing LLP, 1201 N. Market Street, Suite 2300, Wilmington, DE 19801), postmarked no later than **September 19, 2023**.

If you hire an attorney in connection with making an objection, that attorney must also file with the Court a notice of appearance by **September 19, 2023**. If you do hire your own attorney, you will be solely responsible for the payment of any fees and expenses the attorney incurs on your behalf. If you exclude yourself from the Settlement, you cannot file an objection. If you object and the Settlement is approved, you will still be entitled to receive benefits under the Settlement, and will be bound by the terms of the Settlement.

WILL THERE BE COMPENSATION TO CLASS COUNSEL AND THE NAMED PLAINTIFFS?

Class Representative Compensation. The Court may award reasonable service compensation to the named Plaintiffs for their service in the case, not to exceed \$5,000 each, which shall come from the Settlement Fund. Any such Court-ordered compensation shall be paid within five business days after the Effective Date. This shall be in addition to any Cash Award that the named Plaintiffs may receive as Settlement Class Members.

Class Counsel Attorneys' Fees, Costs, and Expenses. The attorneys who brought the lawsuit (listed below) will ask the Court to award them attorneys' fees, costs, and expenses up to one-third of the Settlement Fund (\$2,100,000) for the time and effort expended in investigating the facts, conducting the litigation, and negotiating the Settlement, as well as reimbursement of costs not to exceed \$250,000. Class Counsel's motion for attorneys' fees, costs, and expenses and service awards will be filed with the Court and made available on the Settlement website no later than **September 5, 2023**. The Fee Award shall be payable by the Settlement Administrator from the Settlement Fund within ten (10) business days after entry of the Court's Final Judgment.

WHAT RIGHTS AM I GIVING UP IN THIS SETTLEMENT?

Unless you exclude yourself from the Settlement, you cannot sue or be part of any other lawsuit against UD or any of its affiliated persons and entities about the issues in this case. This specifically includes any claim for breach of contract or any tort, common law, or statutory claim arising out of or in any way allegedly related to UD tuition, fees, and/or costs paid or incurred by or on behalf of any Settlement Class Member in connection with the Spring 2020 Semester. Unless you exclude yourself, all of the decisions and judgments by the Court will bind you.

The Settlement Agreement is available at www.UDSettlement.com. *The Settlement Agreement provides more detail regarding the Releases and describes the Released Claims with specific descriptions in necessary, accurate legal terminology, so read it carefully.* If you have any questions, you can talk for free to the attorneys identified below who have been appointed by the Court to represent the Settlement Class, or you are welcome to talk to any other lawyer of your choosing at your own expense.

WHEN WILL I RECEIVE MY CASH PAYMENT?

Cash Awards will be distributed after the Court grants Final Approval to the Settlement. The Parties cannot accurately predict when (or whether) the Court will grant Final Approval to the Settlement, or whether there may be appeals from that order that take additional time to resolve, so please be patient. After the Court grants Final Approval to the Settlement, and after any appeals are resolved, Settlement Class Members will receive their payment within 60 days.

Updated information about the case will be made available at www.UDSettlement.com, or you can call the Settlement Administrator at 833-479-0844 or contact Class Counsel at the information provided below.

WHEN WILL THE COURT RULE ON THE SETTLEMENT?

The Court has already granted Preliminary Approval of the Settlement. A final hearing on the Settlement, called a final approval or fairness hearing, will be held to determine the fairness of the Settlement. At the Final Approval Hearing, the Court will also consider whether to make final the certification of the Settlement Class for settlement purposes and hear any proper objections and arguments to the Settlement, as well as any requests for an award of attorneys' fees and expenses and service awards for the named Plaintiffs that may be sought by Class Counsel. The Court will hold the Final Approval Hearing on **October 23, 2023 at 9 am ET**, at the United States District Court for the District of Delaware, United States Courthouse, 844 North King Street, Wilmington, DE 19801-3570. The date and time of the Final Approval Hearing are subject to change by Court Order, and the hearing may be conducted remotely. Any changes, including instructions for how Settlement Class Members may attend the hearing if it is conducted virtually or by telephonic means, will be posted at the Settlement website, www.UDSettlement.com, and on the Court's docket on PACER at <http://ecf.ctd.uscourts.gov>.

If the Settlement is given Final Approval, the Court will not make any determination as to the merits of the claims or defenses at issue. Instead, the Settlement's terms will take effect and the Lawsuit will be dismissed on the merits with prejudice. Both sides have agreed to the Settlement to achieve an early and certain resolution to the Lawsuit, so it provides specific and valuable benefits to the members of the Settlement Class.

If the Court does not grant Final Approval of the Settlement, or if Final Approval is reversed on appeal, or if the Settlement does not become final for some other reason, the named Plaintiffs, UD, and Class Members will be in the same position as they were before the execution of the Settlement, and the Settlement will have no legal effect, no class will remain certified (conditionally or otherwise), and Plaintiffs and UD will continue to litigate the Lawsuit. There can be no assurance that, if the Settlement is not approved, the Settlement Class will recover more than is provided in the Settlement, or indeed, anything at all.

WHERE CAN I GET ADDITIONAL INFORMATION?

This Notice is only a summary of the proposed Settlement. More details are in the Settlement Agreement which, along with other documents, can be obtained at www.UDSettlement.com. If you have any questions, you can also call the Settlement Administrator at 833-479-0844 or Class Counsel at the number and email address set forth below. Besides the documents available on the case website, all pleadings and documents filed in Court may be reviewed or copied in the Office of the Clerk.

Please do not contact the Judge or the Clerk of the Court or The University of Delaware about this case. They cannot give you advice on your options.

WHO REPRESENTS THE CLASS?

The Court has approved these attorneys to represent the Settlement Class. They are called "Class Counsel." You will not be charged for these lawyers. If you want to be represented by your own lawyer, you may hire one at your own expense.

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