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10 Attorneys for Federal Defendant  
 Betsy DeVos, in her official capacity as Secretary of the United States Department of  
 11 Education

12 UNITED STATES DISTRICT COURT  
 13 FOR THE CENTRAL DISTRICT OF CALIFORNIA  
 14

15  
 16 SARAH DIEFFENBACHER,  
 17 Plaintiff,  
 18 v.  
 19 BETSY DEVOS, in her official capacity  
 as Secretary of the United States  
 20 Department of Education,  
 21 Defendant.

Case No. 5:17-CV-342-VAP (KKx)

**FEDERAL DEFENDANT’S ANSWER  
 TO FIRST AMENDED COMPLAINT  
 FOR DECLARATORY AND  
 INJUNCTIVE RELIEF**

22  
 23  
 24  
 25 Federal Defendant, in her official capacity as Secretary of the United States  
 26 Department of Education (“Defendant”), in response to the First Amended Complaint for  
 27 Declaratory and Injunctive Relief (“First Amended Complaint”) by Plaintiff Sarah  
 28 Dieffenbacher (“Plaintiff”), hereby admits, denies, and answers the First Amended

1 Complaint as follows:

2 **INTRODUCTION**

3 1. Defendant admits the allegations in this paragraph.

4 2. Defendant lacks sufficient knowledge or information to admit or deny  
5 the allegations in this paragraph, and therefore denies them.

6 3. Defendant admits only that Plaintiff has challenged the enforceability  
7 of her federal student loans to attend Everest College. Defendant denies the  
8 remaining allegations in this paragraph.

9 4. Defendant admits only that Plaintiff has asserted a defense to  
10 repayment of her federal student loans. Defendant denies the remaining allegations  
11 in this paragraph.

12 5. Defendant admits only that the administrative wage garnishment  
13 decision issued in connection with Plaintiff's student loans was withdrawn. To the  
14 extent that the allegations contained in this constitute legal conclusions, they do not  
15 require a response.

16 6. Defendant denies the allegations in this paragraph.

17 7. Defendant admits only that on February 28, 2018, Defendant issued a  
18 "Borrower Defense Claim- Adjudication Notice" approving Plaintiff's claim for  
19 forgiveness of her federal student loans under the borrower defense to repayment  
20 rule. To the extent that the allegations contained in this constitute legal  
21 conclusions, they do not require a response. Defendant denies the remaining  
22 allegations in this paragraph.

23 8. Defendant denies the allegations in this paragraph.

24 9. Defendant denies the allegations in this paragraph.

25 10. Defendant denies the allegations in this paragraph.

26 11. Defendant denies the allegations in this paragraph.

27 12. Defendant denies the allegations in this paragraph.

28

1 **JURISDICTION AND VENUE**

2 13. Defendant states that the allegations contained in this paragraph  
3 constitute legal conclusions and/or asserts of a jurisdictional basis for this action  
4 that do not require a response.

5 14. Defendant states that the allegations contained in this paragraph  
6 constitute legal conclusions and/or assert of a jurisdictional basis for this action that  
7 do not require a response.

8 **PARTIES**

9 15. Defendant lacks sufficient knowledge or information to admit or deny  
10 the allegations in this paragraph, and therefore denies them.

11 16. Defendant admits only that she is the Secretary of the Department of  
12 Education. Defendant states that the allegations contained in this paragraph  
13 constitute legal conclusions and therefore do not require a response.

14 **STATUTORY AND REGULATORY FRAMEWORK**

15 **Secretary’s Authority over FFEL and Direct Loan Program**

16 17. Defendant states that the allegations contained in this paragraph  
17 constitute legal conclusions and therefore do not require a response.

18 18. Defendant states that the allegations contained in this paragraph  
19 constitute legal conclusions and therefore do not require a response.

20 19. Defendant states that the allegations contained in this paragraph  
21 constitute legal conclusions and therefore do not require a response.

22 20. Defendant states that the allegations contained in this paragraph  
23 constitute legal conclusions and therefore do not require a response.

24 21. Defendant states that the allegations contained in this paragraph  
25 constitute legal conclusions and therefore do not require a response.

26 22. Defendant states that the allegations contained in this paragraph  
27 constitute legal conclusions and therefore do not require a response.

28 23. Defendant states that the allegations contained in this paragraph

1 constitute legal conclusions and therefore do not require a response.

2 *Administrative Wage Garnishment*

3 24. Defendant states that the allegations contained in this paragraph  
4 constitute legal conclusions and therefore do not require a response.

5 25. Defendant states that the allegations contained in this paragraph  
6 constitute legal conclusions and therefore do not require a response.

7 26. Defendant states that the allegations contained in this paragraph  
8 constitute legal conclusions and therefore do not require a response.

9 27. Defendant states that the allegations contained in this paragraph  
10 constitute legal conclusions and therefore do not require a response.

11 28. Defendant states that the allegations contained in this paragraph  
12 constitute legal conclusions and therefore do not require a response.

13 29. Defendant states that the allegations contained in this paragraph  
14 constitute legal conclusions and therefore do not require a response.

15 30. Defendant states that the allegations contained in this paragraph  
16 constitute legal conclusions and therefore do not require a response.

17 31. Defendant states that the allegations contained in this paragraph  
18 constitute legal conclusions and therefore do not require a response.

19 32. Defendant states that the allegations contained in this paragraph  
20 constitute legal conclusions and therefore do not require a response.

21 33. Defendant states that the allegations contained in this paragraph  
22 constitute legal conclusions and therefore do not require a response.

23 34. Defendant states that the allegations contained in this paragraph  
24 constitute legal conclusions and therefore do not require a response.

25 35. Defendant states that the allegations contained in this paragraph  
26 constitute legal conclusions and therefore do not require a response.

27 36. Defendant states that the allegations contained in this paragraph  
28 constitute legal conclusions and therefore do not require a response.

1           37. Defendant states that the allegations contained in this paragraph  
2 constitute legal conclusions and therefore do not require a response.

3           38. Defendant states that the allegations contained in this paragraph  
4 constitute legal conclusions and therefore do not require a response.

5           **Challenge to Legal Enforceability of Debt Based on School Misconduct**

6           39. Defendant states that the allegations contained in this paragraph  
7 constitute legal conclusions and therefore do not require a response.

8           40. Defendant states that the allegations contained in this paragraph  
9 constitute legal conclusions and therefore do not require a response.

10          41. Defendant states that the allegations contained in this paragraph  
11 constitute legal conclusions and therefore do not require a response.

12          42. Defendant states that the allegations contained in this paragraph  
13 constitute legal conclusions and therefore do not require a response.

14          43. Defendant states that the allegations contained in this paragraph  
15 constitute legal conclusions and therefore do not require a response.

16          44. Defendant states that the allegations contained in this paragraph  
17 constitute legal conclusions and therefore do not require a response.

18          45. Defendant states that the allegations contained in this paragraph  
19 constitute legal conclusions and therefore do not require a response.

20          46. Defendant states that the allegations contained in this paragraph  
21 constitute legal conclusions and therefore do not require a response.

22          47. Defendant states that the allegations contained in this paragraph  
23 constitute legal conclusions and therefore do not require a response.

24          48. Defendant states that the allegations contained in this paragraph  
25 constitute legal conclusions and therefore do not require a response.

26           **“Gainful Employment”**

27          49. Defendant states that the allegations contained in this paragraph  
28 constitute legal conclusions and therefore do not require a response.

1           50. Defendant states that the allegations contained in this paragraph  
2 constitute legal conclusions and therefore do not require a response.

3           51. Defendant states that the allegations contained in this paragraph  
4 constitute legal conclusions and therefore do not require a response.

5           52. Defendant states that the allegations contained in this paragraph  
6 constitute legal conclusions and therefore do not require a response.

7           53. Defendant states that the allegations contained in this paragraph  
8 constitute legal conclusions and therefore do not require a response.

9           54. Defendant states that the allegations contained in this paragraph  
10 constitute legal conclusions and therefore do not require a response.

11          55. Defendant states that the allegations contained in this paragraph  
12 constitute legal conclusions and therefore do not require a response.

13          56. Defendant states that the allegations contained in this paragraph  
14 constitute legal conclusions and therefore do not require a response.

15          57. Defendant states that the allegations contained in this paragraph  
16 constitute legal conclusions and therefore do not require a response.

17          58. Defendant states that the allegations contained in this paragraph  
18 constitute legal conclusions and therefore do not require a response.

19           **The Privacy Act**

20          59. Defendant states that the allegations contained in this paragraph  
21 constitute legal conclusions and therefore do not require a response.

22          60. Defendant states that the allegations contained in this paragraph  
23 constitute legal conclusions and therefore do not require a response.

24          61. Defendant states that the allegations contained in this paragraph  
25 constitute legal conclusions and therefore do not require a response.

26          62. Defendant states that the allegations contained in this paragraph  
27 constitute legal conclusions and therefore do not require a response.

28          63. Defendant states that the allegations contained in this paragraph

1 constitute legal conclusions and therefore do not require a response.

2 64. Defendant states that the allegations contained in this paragraph  
3 constitute legal conclusions and therefore do not require a response.

4 65. Defendant states that the allegations contained in this paragraph  
5 constitute legal conclusions and therefore do not require a response.

6 66. Defendant states that the allegations contained in this paragraph  
7 constitute legal conclusions and therefore do not require a response.

8 67. Defendant states that the allegations contained in this paragraph  
9 constitute legal conclusions and therefore do not require a response.

10 68. Defendant states that the allegations contained in this paragraph  
11 constitute legal conclusions and therefore do not require a response.

12 **FACTUAL ALLEGATIONS**

13 **Plaintiff's Federal Student Loans**

14 69. Defendant admits only that Plaintiff has student loan debt related to  
15 Everest College. Defendant lacks sufficient knowledge or information to admit or  
16 deny the remaining allegations in this paragraph and therefore denies them.

17 70. Defendant lacks sufficient knowledge or information to admit or deny  
18 the allegations in this paragraph and therefore denies them.

19 71. Defendant lacks sufficient knowledge or information to admit or deny  
20 the allegations in this paragraph and therefore denies them.

21 72. Defendant lacks sufficient knowledge or information to admit or deny  
22 the allegations in this paragraph and therefore denies them.

23 73. Defendant admits only that Plaintiff has student loan debt related to  
24 Everest College, some of which was taken pursuant to the Direct Student Loan  
25 Program and/or the FFELP, and some taken under FFEL program. Defendant lacks  
26 sufficient knowledge or information to admit or deny the remaining allegations in  
27 this paragraph and therefore denies them.

28 74. Defendant admits the allegations in this paragraph.

1           75. Defendant admits the allegations in this paragraph as to her FFEL and  
2 Direct Loans. Defendant lacks sufficient knowledge or information to admit or  
3 deny the remaining allegations in this paragraph and therefore denies them.

4           **Everest's Illegal Conduct**

5           76. Defendant lacks sufficient knowledge or information to admit or deny  
6 the allegations in this paragraph and therefore denies them.

7           77. Defendant lacks sufficient knowledge or information to admit or deny  
8 the allegations in this paragraph and therefore denies them.

9           78. Defendant lacks sufficient knowledge or information to admit or deny  
10 the allegations in this paragraph and therefore denies them.

11           79. Defendant lacks sufficient knowledge or information to admit or deny  
12 the allegations in this paragraph and therefore denies them.

13           80. Defendant lacks sufficient knowledge or information to admit or deny  
14 the allegations in this paragraph and therefore denies them.

15           81. Defendant lacks sufficient knowledge or information to admit or deny  
16 the allegations in this paragraph and therefore denies them.

17           82. Defendant lacks sufficient knowledge or information to admit or deny  
18 the allegations in this paragraph and therefore denies them.

19           83. Defendant lacks sufficient knowledge or information to admit or deny  
20 the allegations in this paragraph and therefore denies them.

21           84. Defendant lacks sufficient knowledge or information to admit or deny  
22 the allegations in this paragraph and therefore denies them.

23           85. Defendant lacks sufficient knowledge or information to admit or deny  
24 the allegations in this paragraph and therefore denies them.

25           86. Defendant lacks sufficient knowledge or information to admit or deny  
26 the allegations in this paragraph and therefore denies them.

27           87. Defendant lacks sufficient knowledge or information to admit or deny  
28 the allegations in this paragraph and therefore denies them.



1           88.     Defendant lacks sufficient knowledge or information to admit or deny  
2 the allegations in this paragraph and therefore denies them.

3           89.     Defendant lacks sufficient knowledge or information to admit or deny  
4 the allegations in this paragraph and therefore denies them.

5           90.     Defendant lacks sufficient knowledge or information to admit or deny  
6 the allegations in this paragraph and therefore denies them.

7           91.     Defendant lacks sufficient knowledge or information to admit or deny  
8 the allegations in this paragraph and therefore denies them.

9           92.     Defendant lacks sufficient knowledge or information to admit or deny  
10 the allegations in this paragraph and therefore denies them.

11          93.     Defendant lacks sufficient knowledge or information to admit or deny  
12 the allegations in this paragraph and therefore denies them.

13          94.     Defendant lacks sufficient knowledge or information to admit or deny  
14 the allegations in this paragraph and therefore denies them.

15          95.     Defendant lacks sufficient knowledge or information to admit or deny  
16 the allegations in this paragraph and therefore denies them.

17          96.     Defendant lacks sufficient knowledge or information to admit or deny  
18 the allegations in this paragraph and therefore denies them.

19          97.     Defendant lacks sufficient knowledge or information to admit or deny  
20 the allegations in this paragraph and therefore denies them.

21          98.     Defendant lacks sufficient knowledge or information to admit or deny  
22 the allegations in this paragraph and therefore denies them.

23          99.     Defendant lacks sufficient knowledge or information to admit or deny  
24 the allegations in this paragraph and therefore denies them.

25          100.    Defendant lacks sufficient knowledge or information to admit or deny  
26 the allegations in this paragraph and therefore denies them.

27          101.    Defendant lacks sufficient knowledge or information to admit or deny  
28 the allegations in this paragraph and therefore denies them.

1           102. Defendant lacks sufficient knowledge or information to admit or deny  
2 the allegations in this paragraph and therefore denies them.

3           103. Defendant lacks sufficient knowledge or information to admit or deny  
4 the allegations in this paragraph and therefore denies them.

5           104. Defendant lacks sufficient knowledge or information to admit or deny  
6 the allegations in this paragraph and therefore denies them.

7           105. Defendant lacks sufficient knowledge or information to admit or deny  
8 the allegations in this paragraph and therefore denies them.

9           106. Defendant lacks sufficient knowledge or information to admit or deny  
10 the allegations in this paragraph and therefore denies them.

11           107. Defendant lacks sufficient knowledge or information to admit or deny  
12 the allegations in this paragraph and therefore denies them.

13           108. Defendant lacks sufficient knowledge or information to admit or deny  
14 the allegations in this paragraph and therefore denies them.

15           109. Defendant lacks sufficient knowledge or information to admit or deny  
16 the allegations in this paragraph and therefore denies them.

17           110. Defendant lacks sufficient knowledge or information to admit or deny  
18 the allegations in this paragraph and therefore denies them.

19           111. Defendant lacks sufficient knowledge or information to admit or deny  
20 the allegations in this paragraph and therefore denies them.

21           112. Defendant lacks sufficient knowledge or information to admit or deny  
22 the allegations in this paragraph and therefore denies them.

23           113. Defendant lacks sufficient knowledge or information to admit or deny  
24 the allegations in this paragraph and therefore denies them.

25           114. Defendant lacks sufficient knowledge or information to admit or deny  
26 the allegations in this paragraph and therefore denies them.

27           115. Defendant lacks sufficient knowledge or information to admit or deny  
28 the allegations in this paragraph and therefore denies them.

1           116. Defendant lacks sufficient knowledge or information to admit or deny  
2 the allegations in this paragraph and therefore denies them.

3           117. Defendant lacks sufficient knowledge or information to admit or deny  
4 the allegations in this paragraph and therefore denies them.

5           118. Defendant lacks sufficient knowledge or information to admit or deny  
6 the allegations in this paragraph and therefore denies them.

7           119. Defendant lacks sufficient knowledge or information to admit or deny  
8 the allegations in this paragraph and therefore denies them.

9           120. Defendant lacks sufficient knowledge or information to admit or deny  
10 the allegations in this paragraph and therefore denies them.

11           121. Defendant lacks sufficient knowledge or information to admit or deny  
12 the allegations in this paragraph and therefore denies them.

13           122. Defendant lacks sufficient knowledge or information to admit or deny  
14 the allegations in this paragraph and therefore denies them.

15           123. Defendant lacks sufficient knowledge or information to admit or deny  
16 the allegations in this paragraph and therefore denies them.

17           124. Defendant lacks sufficient knowledge or information to admit or deny  
18 the allegations in this paragraph and therefore denies them.

19           125. Defendant lacks sufficient knowledge or information to admit or deny  
20 the allegations in this paragraph and therefore denies them.

21           126. Defendant lacks sufficient knowledge or information to admit or deny  
22 the allegations in this paragraph and therefore denies them.

23           127. Defendant lacks sufficient knowledge or information to admit or deny  
24 the allegations in this paragraph and therefore denies them.

25           128. Defendant lacks sufficient knowledge or information to admit or deny  
26 the allegations in this paragraph and therefore denies them.

27           129. Defendant lacks sufficient knowledge or information to admit or deny  
28 the allegations in this paragraph and therefore denies them.

1           130. Defendant lacks sufficient knowledge or information to admit or deny  
2 the allegations in this paragraph and therefore denies them.

3           131. Defendant lacks sufficient knowledge or information to admit or deny  
4 the allegations in this paragraph and therefore denies them.

5           132. Defendant lacks sufficient knowledge or information to admit or deny  
6 the allegations in this paragraph and therefore denies them.

7           133. Defendant lacks sufficient knowledge or information to admit or deny  
8 the allegations in this paragraph and therefore denies them.

9           134. Defendant lacks sufficient knowledge or information to admit or deny  
10 the allegations in this paragraph and therefore denies them.

11           135. Defendant lacks sufficient knowledge or information to admit or deny  
12 the allegations in this paragraph and therefore denies them.

13           136. Defendant lacks sufficient knowledge or information to admit or deny  
14 the allegations in this paragraph and therefore denies them.

15           137. Defendant lacks sufficient knowledge or information to admit or deny  
16 the allegations in this paragraph and therefore denies them.

17           138. Defendant lacks sufficient knowledge or information to admit or deny  
18 the allegations in this paragraph and therefore denies them.

19           139. Defendant lacks sufficient knowledge or information to admit or deny  
20 the allegations in this paragraph and therefore denies them.

21           140. Defendant lacks sufficient knowledge or information to admit or deny  
22 the allegations in this paragraph and therefore denies them.

23           141. Defendant lacks sufficient knowledge or information to admit or deny  
24 the allegations in this paragraph and therefore denies them.

25           142. Defendant lacks sufficient knowledge or information to admit or deny  
26 the allegations in this paragraph and therefore denies them.

27           143. Defendant lacks sufficient knowledge or information to admit or deny  
28 the allegations in this paragraph and therefore denies them.

1           144. Defendant lacks sufficient knowledge or information to admit or deny  
2 the allegations in this paragraph and therefore denies them.

3           **Plaintiff's Attempts to Have Her Debt Determined Legally Unenforceable**

4           145. Defendant admits only that in March 2015, Plaintiff applied for  
5 discharge of her student loan debt pursuant to the borrower defense rule. To the  
6 extent that the allegations contained in this constitute legal conclusions, they do not  
7 require a response. Defendant denies the remaining allegations in this paragraph.

8           146. Defendant denies the allegations in this paragraph to the extent that  
9 Plaintiff's characterization of the documents submitted in March 2015 differs from  
10 the actual documents, which speak for themselves. Defendant lacks sufficient  
11 knowledge or information to admit or deny the remaining allegations in this  
12 paragraph and therefore denies them.

13           147. Defendant admits only that the Department did not have a form for  
14 receiving borrower defense claims at that time. Defendant lacks sufficient  
15 knowledge or information to admit or deny the remaining allegations in this  
16 paragraph and therefore denies them.

17           148. Defendant lacks sufficient knowledge or information to admit or deny  
18 the allegations in this paragraph and therefore denies them.

19           149. Defendant denies the allegations in this paragraph to the extent that  
20 Plaintiff's characterization of the documents submitted in March 2015 differs from  
21 the actual documents, which speak for themselves. Defendant lacks sufficient  
22 knowledge or information to admit or deny the remaining allegations in this  
23 paragraph and therefore denies them.

24           150. Defendant denies the allegations in this paragraph to the extent that  
25 Plaintiff's characterization of the documents submitted in March 2015 differs from  
26 the actual documents, which speak for themselves. Defendant lacks sufficient  
27 knowledge or information to admit or deny the remaining allegations in this  
28 paragraph and therefore denies them.

1           151. Defendant denies the allegations in this paragraph to the extent that  
2 Plaintiff's characterization of the documents submitted in March 2015 differs from  
3 the actual documents, which speak for themselves. Defendant lacks sufficient  
4 knowledge or information to admit or deny the remaining allegations in this  
5 paragraph and therefore denies them.

6           152. Defendant admits only that Plaintiff defaulted on her ECMC  
7 guaranteed federal student loans. Defendant lacks sufficient knowledge or  
8 information to admit or deny the remaining allegations in this paragraph and  
9 therefore denies them.

10           153. Defendant lacks sufficient knowledge or information to admit or deny  
11 the remaining allegations in this paragraph and therefore denies them.

12           154. Defendant lacks sufficient knowledge or information to admit or deny  
13 the remaining allegations in this paragraph and therefore denies them.

14           155. Defendant denies the allegations in this paragraph to the extent that  
15 Plaintiff's characterization of the documents submitted in October 2016 differs from  
16 the actual documents, which speak for themselves. Defendant lacks sufficient  
17 knowledge or information to admit or deny the remaining allegations in this  
18 paragraph and therefore denies them.

19           156. Defendant lacks sufficient knowledge or information to admit or deny  
20 the remaining allegations in this paragraph and therefore denies them.

21           157. Defendant lacks sufficient knowledge or information to admit or deny  
22 the remaining allegations in this paragraph and therefore denies them.

23           158. Defendant states that the allegations contained in this paragraph  
24 constitute legal conclusions and therefore do not require a response.

25           159. Defendant states that the allegations contained in this paragraph  
26 constitute legal conclusions and therefore do not require a response. To the extent a  
27 response is deemed required, Defendant denies the allegations contained in this  
28 paragraph.

1           160. Defendant denies the allegations in this paragraph to the extent that  
2 Plaintiff's characterization of documents differs from the actual documents, which  
3 speak for themselves. Defendant states that the remaining allegations contained in  
4 this paragraph constitute legal conclusions and therefore do not require a response.

5           161. Defendant denies the allegations in this paragraph to the extent that  
6 Plaintiff's characterization of documents differs from the actual documents, which  
7 speak for themselves. Defendant states that the remaining allegations contained in  
8 this paragraph constitute legal conclusions and therefore do not require a response.

9           162. Defendant denies the allegations in this paragraph to the extent that  
10 Plaintiff's characterization of documents differs from the actual documents, which  
11 speak for themselves. Defendant states that the remaining allegations contained in  
12 this paragraph constitute legal conclusions and therefore do not require a response.

13           163. Defendant lacks sufficient knowledge or information to admit or deny  
14 the remaining allegations in this paragraph and therefore denies them.

15           164. Defendant lacks sufficient knowledge or information to admit or deny  
16 the remaining allegations in this paragraph and therefore denies them.

17           165. Defendant lacks sufficient knowledge or information to admit or deny  
18 the remaining allegations in this paragraph and therefore denies them.

19           166. Defendant lacks sufficient knowledge or information to admit or deny  
20 the remaining allegations in this paragraph and therefore denies them.

21           167. Defendant lacks sufficient knowledge or information to admit or deny  
22 the remaining allegations in this paragraph and therefore denies them.

23           168. Defendant lacks sufficient knowledge or information to admit or deny  
24 the remaining allegations in this paragraph and therefore denies them.

25           169. Defendant admits only that it created attestation forms allowing a  
26 borrower to apply for a borrower defense loan discharge. Defendant denies the  
27 remaining allegations in this paragraph.

28           170. Defendant states that the allegations contained in this paragraph

1 constitute legal conclusions and/or asserts of a jurisdictional basis for this action  
2 that do not require a response.

3 171. Defendant lacks sufficient knowledge or information to admit or deny  
4 the remaining allegations in this paragraph and therefore denies them.

5 172. Defendant admits only that an Administrative Wage Garnishment  
6 Hearing Decision was issued on January 30, 2017 in connection with the defaulted  
7 ECMC- guaranteed federal student loans.

8 173. Defendant denies the allegations in this paragraph to the extent that  
9 Plaintiff's characterization of the January 30, 2017 Administrative Wage  
10 Garnishment Hearing Decision differs from the actual decision, which speaks for  
11 itself.

12 174. Defendant denies the allegations in this paragraph to the extent that  
13 Plaintiff's characterization of the January 30, 2017 Administrative Wage  
14 Garnishment Hearing Decision differs from the actual decision, which speaks for  
15 itself.

16 175. Defendant denies the allegations in this paragraph to the extent that  
17 Plaintiff's characterization of the January 30, 2017 Administrative Wage  
18 Garnishment Hearing Decision differs from the actual decision, which speaks for  
19 itself.

20 176. Defendant denies the allegations in this paragraph to the extent that  
21 Plaintiff's characterization of the January 30, 2017 Administrative Wage  
22 Garnishment Hearing Decision differs from the actual decision, which speaks for  
23 itself.

24 177. Defendant admits the allegation in this paragraph.

25 178. Defendant lacks sufficient knowledge or information to admit or deny  
26 the allegations in this paragraph and therefore denies them.

27 179. Defendant lacks sufficient knowledge or information to admit or deny  
28 the allegations in this paragraph and therefore denies them.



1           180. Defendant admits only that Plaintiff initiated this action on February  
2 23, 2017. Defendant denies the allegations in this paragraph to the extent that  
3 Plaintiff's characterization of the documents filed on February 23, 2017 differ from  
4 the actual documents, which speak for themselves.

5           181. Defendant lacks sufficient knowledge or information to admit or deny  
6 the allegations in this paragraph and therefore denies them.

7           182. Defendant admits the allegations in this paragraph.

8           183. Defendant lacks sufficient knowledge or information to admit or deny  
9 the allegations in this paragraph and therefore denies them.

10          184. Defendant admits the allegation in this paragraph.

11          185. Defendant denies the allegations in this paragraph to the extent that  
12 Plaintiff's characterization of the documents filed on May 22, 2017 differ from the  
13 actual documents, which speak for themselves.

14          186. Defendant denies the allegations in this paragraph to the extent that  
15 Plaintiff's characterization of the documents filed on May 22, 2017 differ from the  
16 actual documents, which speak for themselves.

17          187. Defendant denies the allegations in this paragraph.

18          188. Defendant denies the allegations in this paragraph to the extent that  
19 Plaintiff's characterization of the documents she filed differ from the actual  
20 documents, which speak for themselves.

21          189. Defendant admits the allegations in this paragraph.

22          190. Defendant admits only that an interim administrative wage  
23 garnishment decision was issued on June 15, 2017 withdrawing the January 2017  
24 administrative wage garnishment decision.

25          191. Defendant denies the allegations in this paragraph to the extent that  
26 Plaintiff's characterization of the June 15, 2017 interim decision differs from the  
27 actual decision, which speaks for itself.

28          192. Defendant denies the allegations in this paragraph to the extent that

1 Plaintiff's characterization of the declaration filed on September 7, 2017 differs  
2 from the actual declaration, which speaks for itself.

3 193. Defendant admits the allegations in this paragraph.

4 194. Defendant admits the allegation in this paragraph.

5 195. Defendant denies the allegations in this paragraph to the extent that  
6 Plaintiff's characterization of the filed Answer differs from the actual answer,  
7 which speaks for itself.

8 **February 28, 2018 Borrower Defense "Adjudication"**

9 196. The allegations in this paragraph constitutes Plaintiff's  
10 characterization of the Adjudication Notice document, which speaks for itself. To  
11 the extent that these allegations differ from the Adjudication Notice document itself,  
12 Defendant denies them.

13 197. The allegations in this paragraph constitutes Plaintiff's  
14 characterization of the Adjudication Notice document, which speaks for itself. To  
15 the extent that these allegations differ from the Adjudication Notice document itself,  
16 Defendant denies them.

17 198. The allegations in this paragraph constitutes Plaintiff's  
18 characterization of the Adjudication Notice document, which speaks for itself. To  
19 the extent that these allegations differ from the Adjudication Notice document itself,  
20 Defendant denies them.

21 ***The Department's Irrational Use of Third-Party Data to Calculate Relief***

22 199. The allegations in this paragraph constitute Plaintiff's  
23 characterizations of the Department of Education's borrower discharge process,  
24 described at [https://www.ed.gov/news/press-releases/improved-borrower-defense-](https://www.ed.gov/news/press-releases/improved-borrower-defense-discharge-process-will-aid-defrauded-borrowers-protect-taxpayers)  
25 [discharge-process-will-aid-defrauded-borrowers-protect-taxpayers](https://www.ed.gov/news/press-releases/improved-borrower-defense-discharge-process-will-aid-defrauded-borrowers-protect-taxpayers), which speaks  
26 for itself, and/or legal conclusions that do not require a response. To the extent that  
27 a response is required, Defendant denies the allegations in this paragraph to the  
28 extent that they differ from the process itself.

1           200. The allegations in this paragraph constitute Plaintiff's  
2 characterizations of the Department of Education's borrower discharge process,  
3 described at [https://www.ed.gov/news/press-releases/improved-borrower-defense-  
5 discharge-process-will-aid-defrauded-borrowers-protect-taxpayers](https://www.ed.gov/news/press-releases/improved-borrower-defense-<br/>4 discharge-process-will-aid-defrauded-borrowers-protect-taxpayers), which speaks  
6 for itself, and/or legal conclusions that do not require a response. To the extent that  
7 a response is required, Defendant denies the allegations in this paragraph to the  
8 extent that they differ from the process itself.

9           201. The allegations in this paragraph constitute Plaintiff's  
10 characterizations of the Department of Education's borrower discharge process,  
11 described at [https://www.ed.gov/news/press-releases/improved-borrower-defense-  
13 discharge-process-will-aid-defrauded-borrowers-protect-taxpayers](https://www.ed.gov/news/press-releases/improved-borrower-defense-<br/>12 discharge-process-will-aid-defrauded-borrowers-protect-taxpayers), which speaks  
14 for itself, and/or legal conclusions that do not require a response. To the extent that  
15 a response is required, Defendant denies the allegations in this paragraph to the  
16 extent that they differ from the process itself.

17           202. The allegations in this paragraph constitute Plaintiff's  
18 characterizations of the Department of Education's borrower discharge process,  
19 described at [https://www.ed.gov/news/press-releases/improved-borrower-defense-  
21 discharge-process-will-aid-defrauded-borrowers-protect-taxpayers](https://www.ed.gov/news/press-releases/improved-borrower-defense-<br/>20 discharge-process-will-aid-defrauded-borrowers-protect-taxpayers), which speaks  
22 for itself, and/or legal conclusions that do not require a response. To the extent that  
23 a response is required, Defendant denies the allegations in this paragraph to the  
24 extent that they differ from the process itself.

25           203. The allegations in this paragraph constitute Plaintiff's  
26 characterizations of the Department of Education's borrower discharge process,  
27 described at [https://www.ed.gov/news/press-releases/improved-borrower-defense-  
discharge-process-will-aid-defrauded-borrowers-protect-taxpayers](https://www.ed.gov/news/press-releases/improved-borrower-defense-<br/>28 discharge-process-will-aid-defrauded-borrowers-protect-taxpayers), which speaks  
for itself, and/or legal conclusions that do not require a response. To the extent that  
a response is required, Defendant denies the allegations in this paragraph to the  
extent that they differ from the process itself.

1           204. The allegations in this paragraph constitute Plaintiff's  
2 characterizations of the Department of Education's borrower discharge process,  
3 described at [https://www.ed.gov/news/press-releases/improved-borrower-defense-  
5 discharge-process-will-aid-defrauded-borrowers-protect-taxpayers](https://www.ed.gov/news/press-releases/improved-borrower-defense-<br/>4 discharge-process-will-aid-defrauded-borrowers-protect-taxpayers), which speaks  
6 for itself, and/or legal conclusions that do not require a response. To the extent that  
7 a response is required, Defendant denies the allegations in this paragraph to the  
8 extent that they differ from the process itself.

9           205. The allegations in this paragraph constitute Plaintiff's  
10 characterizations of the Department of Education's borrower discharge process,  
11 described at [https://www.ed.gov/news/press-releases/improved-borrower-defense-  
13 discharge-process-will-aid-defrauded-borrowers-protect-taxpayers](https://www.ed.gov/news/press-releases/improved-borrower-defense-<br/>12 discharge-process-will-aid-defrauded-borrowers-protect-taxpayers), which speaks  
14 for itself, and/or legal conclusions that do not require a response. To the extent that  
15 a response is required, Defendant denies the allegations in this paragraph to the  
16 extent that they differ from the process itself.

17           206. The allegations in this paragraph constitute Plaintiff's  
18 characterizations of the Department of Education's borrower discharge process,  
19 described at [https://www.ed.gov/news/press-releases/improved-borrower-defense-  
21 discharge-process-will-aid-defrauded-borrowers-protect-taxpayers](https://www.ed.gov/news/press-releases/improved-borrower-defense-<br/>20 discharge-process-will-aid-defrauded-borrowers-protect-taxpayers), which speaks  
22 for itself, and/or legal conclusions that do not require a response. To the extent that  
23 a response is required, Defendant denies the allegations in this paragraph to the  
24 extent that they differ from the process itself.

***The Department's Unlawful Data Experiment***

25           207. The allegations in this paragraph constitute Plaintiff's  
26 characterizations of the Department of Education's borrower discharge process,  
27 described at [https://www.ed.gov/news/press-releases/improved-borrower-defense-  
discharge-process-will-aid-defrauded-borrowers-protect-taxpayers](https://www.ed.gov/news/press-releases/improved-borrower-defense-<br/>28 discharge-process-will-aid-defrauded-borrowers-protect-taxpayers), which speaks  
for itself, and/or legal conclusions that do not require a response. To the extent that  
a response is required, Defendant denies the allegations in this paragraph to the

1 extent that they differ from the process itself.

2 208. The allegations in this paragraph constitute Plaintiff's  
3 characterizations of the Department of Education's borrower discharge process,  
4 described at [https://www.ed.gov/news/press-releases/improved-borrower-defense-](https://www.ed.gov/news/press-releases/improved-borrower-defense-discharge-process-will-aid-defrauded-borrowers-protect-taxpayers)  
5 [discharge-process-will-aid-defrauded-borrowers-protect-taxpayers](https://www.ed.gov/news/press-releases/improved-borrower-defense-discharge-process-will-aid-defrauded-borrowers-protect-taxpayers), which speaks  
6 for itself, and/or legal conclusions that do not require a response. To the extent that  
7 a response is required, Defendant denies the allegations in this paragraph to the  
8 extent that they differ from the process itself.

9 209. The allegations in this paragraph constitute Plaintiff's  
10 characterizations of the Department of Education's borrower discharge process,  
11 described at [https://www.ed.gov/news/press-releases/improved-borrower-defense-](https://www.ed.gov/news/press-releases/improved-borrower-defense-discharge-process-will-aid-defrauded-borrowers-protect-taxpayers)  
12 [discharge-process-will-aid-defrauded-borrowers-protect-taxpayers](https://www.ed.gov/news/press-releases/improved-borrower-defense-discharge-process-will-aid-defrauded-borrowers-protect-taxpayers), which speaks  
13 for itself, and/or legal conclusions that do not require a response. To the extent that  
14 a response is required, Defendant denies the allegations in this paragraph to the  
15 extent that they differ from the process itself.

16 210. The allegations in this paragraph constitute Plaintiff's  
17 characterizations of the Department of Education's borrower discharge process,  
18 described at [https://www.ed.gov/news/press-releases/improved-borrower-defense-](https://www.ed.gov/news/press-releases/improved-borrower-defense-discharge-process-will-aid-defrauded-borrowers-protect-taxpayers)  
19 [discharge-process-will-aid-defrauded-borrowers-protect-taxpayers](https://www.ed.gov/news/press-releases/improved-borrower-defense-discharge-process-will-aid-defrauded-borrowers-protect-taxpayers), which speaks  
20 for itself, and/or legal conclusions that do not require a response. To the extent that  
21 a response is required, Defendant denies the allegations in this paragraph to the  
22 extent that they differ from the process itself.

23 211. The allegations in this paragraph constitute Plaintiff's  
24 characterizations of the Department of Education's borrower discharge process,  
25 described at [https://www.ed.gov/news/press-releases/improved-borrower-defense-](https://www.ed.gov/news/press-releases/improved-borrower-defense-discharge-process-will-aid-defrauded-borrowers-protect-taxpayers)  
26 [discharge-process-will-aid-defrauded-borrowers-protect-taxpayers](https://www.ed.gov/news/press-releases/improved-borrower-defense-discharge-process-will-aid-defrauded-borrowers-protect-taxpayers), which speaks  
27 for itself, and/or legal conclusions that do not require a response. To the extent that  
28 a response is required, Defendant denies the allegations in this paragraph to the

1 extent that they differ from the process itself.

2 212. The allegations in this paragraph constitute Plaintiff's  
3 characterizations of the Department of Education's borrower discharge process,  
4 described at [https://www.ed.gov/news/press-releases/improved-borrower-defense-](https://www.ed.gov/news/press-releases/improved-borrower-defense-discharge-process-will-aid-defrauded-borrowers-protect-taxpayers)  
5 [discharge-process-will-aid-defrauded-borrowers-protect-taxpayers](https://www.ed.gov/news/press-releases/improved-borrower-defense-discharge-process-will-aid-defrauded-borrowers-protect-taxpayers), which speaks  
6 for itself, and/or legal conclusions that do not require a response. To the extent that  
7 a response is required, Defendant denies the allegations in this paragraph to the  
8 extent that they differ from the process itself.

9 ***The Department's Insufficient Notice and Problems with Consolidation***

10 213. The allegations in this paragraph constitutes Plaintiff's  
11 characterization of the Adjudication Notice document, which speaks for itself. To  
12 the extent that these allegations differ from the Adjudication Notice document itself,  
13 Defendant denies them.

14 214. The allegations in this paragraph constitutes Plaintiff's  
15 characterization of the Adjudication Notice document, which speaks for itself. To  
16 the extent that these allegations differ from the Adjudication Notice document itself,  
17 Defendant denies them.

18 215. The allegations in this paragraph constitutes Plaintiff's  
19 characterization of the Adjudication Notice document, which speaks for itself. To  
20 the extent that these allegations differ from the Adjudication Notice document itself,  
21 Defendant denies them.

22 216. The allegations in this paragraph constitutes Plaintiff's  
23 characterization of the Adjudication Notice document, which speaks for itself. To  
24 the extent that these allegations differ from the Adjudication Notice document itself,  
25 Defendant denies them.

26 217. The allegations in this paragraph constitutes Plaintiff's  
27 characterization of the Adjudication Notice document, which speaks for itself. To  
28 the extent that these allegations differ from the Adjudication Notice document itself,

1 Defendant denies them.

2 218. The allegations in this paragraph constitutes Plaintiff's  
3 characterization of the Adjudication Notice document, which speaks for itself. To  
4 the extent that these allegations differ from the Adjudication Notice document itself,  
5 Defendant denies them.

6 219. The allegations in this paragraph constitutes Plaintiff's  
7 characterization of the Adjudication Notice document, which speaks for itself. To  
8 the extent that these allegations differ from the Adjudication Notice document itself,  
9 Defendant denies them.

10 220. The allegations in this paragraph constitutes Plaintiff's  
11 characterization of the Adjudication Notice document, which speaks for itself. To  
12 the extent that these allegations differ from the Adjudication Notice document itself,  
13 Defendant denies them.

14 221. The allegations in this paragraph constitutes Plaintiff's  
15 characterization of the Adjudication Notice document, which speaks for itself. To  
16 the extent that these allegations differ from the Adjudication Notice document itself,  
17 Defendant denies them.

18 222. The allegations in this paragraph constitutes Plaintiff's  
19 characterization of the Adjudication Notice document, which speaks for itself. To  
20 the extent that these allegations differ from the Adjudication Notice document itself,  
21 Defendant denies them.

22 223. Defendant admits that Plaintiff has not consolidated her FFEL loans.

23 224. The allegations in this paragraph constitutes Plaintiff's  
24 characterization of the Consolidation Loan Application and/or Master Promissory  
25 Note, which speaks for itself. To the extent that these allegations differ from the  
26 Consolidation Loan Application and/or Master Promissory Note, Defendant denies  
27 them.

28 225. The allegations in this paragraph constitute Plaintiff's

1 characterization of a purported denial of an unidentified application, which speaks  
2 for itself. To the extent that these allegations differ from the purported denial of an  
3 unidentified application, Defendant denies them.

4 226. Defendant admits only that Plaintiff owes principal and interest on  
5 her FFEL loans. Defendant lacks sufficient knowledge or information to admit or  
6 deny the allegations in this paragraph and therefore denies them.

7 227. Defendant lacks sufficient knowledge or information to admit or deny  
8 the allegations in this paragraph and therefore denies them.

9 228. Defendant admits only that Plaintiff owes principal and interest on  
10 her FFEL loans. Defendant lacks sufficient knowledge or information to admit or  
11 deny the allegations in this paragraph and therefore denies them.

12 229. Defendant admits only that Plaintiff owes principal and interest on  
13 her FFEL loans. Defendant lacks sufficient knowledge or information to admit or  
14 deny the allegations in this paragraph and therefore denies them.

15 230. The allegations in this paragraph constitutes Plaintiff's  
16 characterization of the Adjudication Notice document, which speaks for itself. To  
17 the extent that these allegations differ from the Adjudication Notice document itself,  
18 Defendant denies them.

19 231. Defendant admits the allegations in this paragraph.

## 20 CAUSES OF ACTION

### 21 Count 1

#### 22 **Arbitrary, Capricious, and Unlawful Borrower Defense Adjudication**

#### 23 **Decision—APA § 706(2)**

24 232. Defendant incorporates its responses to paragraphs 1 through 231 as  
25 if set forth fully herein.

26 233. Defendant states that the allegations in paragraph 233 constitute legal  
27 conclusions and/or a prayer for relief that do not require a response.

28 234. Defendant states that the allegations in this paragraph constitute legal



1 conclusions that do not require a response.

2 235. Defendant denies the allegations in this paragraph.

3 236. Defendant denies the allegations in this paragraph.

4 237. Defendant denies the allegations in this paragraph.

5 238. Defendant denies the allegations in this paragraph.

6 239. Defendant denies the allegations in this paragraph.

7 **Count 2**

8 **Violation of Due Process—APA § 706(2) & U.S. Const., Amend. V**

9 240. Defendant incorporates its responses to each of the foregoing  
10 paragraphs as if set forth fully herein.

11 241. Defendant states that the allegations in this paragraph constitute legal  
12 conclusions that do not require a response.

13 242. Defendant denies the allegations in this paragraph.

14 243. Defendant denies the allegations in this paragraph.

15 244. Defendant denies the allegations in this paragraph.

16 245. Defendant denies the allegations in this paragraph.

17 **Count 3**

18 **Violation of Privacy Act -- APA § 706(2) & 5 U.S.C. § 552a**

19 246. Defendant incorporates its responses to each of the foregoing  
20 paragraphs as if set forth fully herein.

21 247. Defendant denies the allegations in this paragraph.

22 248. Defendant states that the allegations in this constitute legal  
23 conclusions that do not require a response.

24 249. The allegations in this paragraph constitute Plaintiff's  
25 characterizations of the Department of Education's borrower discharge process,  
26 described at [https://www.ed.gov/news/press-releases/improved-borrower-defense-](https://www.ed.gov/news/press-releases/improved-borrower-defense-discharge-process-will-aid-defrauded-borrowers-protect-taxpayers)  
27 [discharge-process-will-aid-defrauded-borrowers-protect-taxpayers](https://www.ed.gov/news/press-releases/improved-borrower-defense-discharge-process-will-aid-defrauded-borrowers-protect-taxpayers), which speaks  
28 for itself, and/or legal conclusions that do not require a response. To the extent that

1 a response is required, Defendant denies the allegations in this paragraph to the  
2 extent that they differ from the process itself.

3 250. Defendant denies the allegations in this paragraph.

4 251. The allegations in this paragraph constitute Plaintiff's  
5 characterizations of the Department of Education's borrower discharge process,  
6 described at [https://www.ed.gov/news/press-releases/improved-borrower-defense-  
8 discharge-process-will-aid-defrauded-borrowers-protect-taxpayers](https://www.ed.gov/news/press-releases/improved-borrower-defense-<br/>7 discharge-process-will-aid-defrauded-borrowers-protect-taxpayers), which speaks  
9 for itself, and/or legal conclusions that do not require a response. To the extent that  
10 a response is required, Defendant denies the allegations in this paragraph to the  
11 extent that they differ from the process itself.

12 252. Defendant denies the allegations in this paragraph.

13 253. Defendant denies the allegations in this paragraph.

14 254. Defendant denies the allegations in this paragraph.

15 255. Defendant denies the allegations in this paragraph.

#### 16 **Count 4**

#### 17 **Arbitrary, Capricious, and Unlawful Wage Garnishment Decision—APA § 706(2)**

18 256. Defendant incorporates its responses to each of the foregoing  
19 paragraphs as if set forth fully herein.

20 257. Defendant states that the allegations in this constitute legal  
21 conclusions and/or a prayer for relief that do not require a response.

22 258. Defendant denies the allegations in this paragraph.

23 259. Defendant denies the allegations in this paragraph.

24 260. Defendant denies the allegations in this paragraph.

25 261. Defendant denies the allegations in this paragraph.

26 262. Defendant denies the allegations in this paragraph.

27 263. Defendant denies the allegations in this paragraph.

28 264. Defendant denies the allegations in this paragraph.

**PRAYER**

The section preceded by heading “Prayer” constitutes Plaintiff’s prayer for relief to which no response is required. To the extent a response is deemed required, Federal Defendant denies Plaintiff is entitled to judgment or the relief sought.

Any allegations to which a response is deemed necessary and which have not been admitted, denied, or otherwise responded to are generally and specifically denied.

DATE: August 20, 2018.

Respectfully submitted,

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United States Attorney  
DAVID M. HARRIS  
Assistant United States Attorney  
Chief, Civil Division

/s/ Indira J. Cameron-Banks  
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Attorneys for Federal Defendant  
BETSY DEVOS, in her official capacity  
as Secretary of the United States  
Department of Education