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11 Attorneys for Plaintiffs

12  
13 **SUPERIOR COURT FOR THE STATE OF CALIFORNIA**  
**COUNTY OF LOS ANGELES – STANLEY MOSK COURTHOUSE**  
14

15 JORGE VILLALBA and ALICIA VILLALBA, ) Case No.:

16 Plaintiffs, )

17 v. )

18 SALLIE MAE BANK; NAVIENT )  
CORPORATION; NAVIENT; NAVIENT )  
19 SOLUTIONS, LLC; NAVIENT CREDIT )  
FINANCE CORPORATION; and DOES 1 )  
20 through 10 inclusive, )

21 Defendants, )  
22 )

**COMPLAINT FOR:**

- 1) VIOLATIONS OF THE UNFAIR COMPETITION LAW, CALIFORNIA BUSINESS AND PROFESSIONS CODE §§17200 et seq.
- 2) DECLARATORY JUDGMENT
- 3) VIOLATIONS OF THE ROSENTHAL FAIR DEBT COLLECTION PRACTICES ACT CALIFORNIA CIVIL CODE §§ 1788 et seq.
- 4) VIOLATION OF THE CALIFORNIA CONSUMER CREDIT REPORTING AGENCIES ACT CALIFORNIA CIVIL CODE §§ 1785 et seq.

23 **INTRODUCTION**

24 1. Beginning in 2006, Plaintiff Jorge Villalba was defrauded by ITT, a predatory, for-profit  
25 school company that filed for bankruptcy in September 2016.

26  
27 2. To pursue his educational and career dreams, Mr. Villalba borrowed over \$50,000 in federal  
28 student loans.

1           3.     In addition to borrowing federal loans, Mr. Villalba borrowed over \$43,000 in private student  
2 loans from Defendants. His mother, Plaintiff Alicia Villalba, co-signed some of the private loans.

3           4.     ITT attracted and maintained its student body through a web of systemic deceit designed to  
4 enrich its executives and investors by capturing the maximum amount of taxpayer-funded government  
5 student aid from its students.

6           5.     Federal, state, and congressional investigators found evidence of serious and widespread  
7 abusive practices at ITT. Despite these investigations, ITT persisted for years to ensnare thousands of  
8 students seeking to better themselves through education, leaving them with largely worthless credentials  
9 and burdensome student loan debt.

10          6.     Sallie Mae (now Navient), benefited from and participated in ITT's predatory activities by  
11 lending subprime private student loans to students like Jorge Villalba and his co-signer mother.

12          7.     In November 2018, Plaintiffs sought to cancel their private student loans by notifying Navient  
13 of their desire to invoke a defense to repayment provided for in their loan contracts.

14          8.     Nearly a year earlier, Mr. Villalba obtained complete loan cancellation on his federal student  
15 loans from the U.S. Department of Education pursuant to a similar contractual provision. ITT's violations  
16 of California consumer protection law were the basis of the federal loan cancellation.

17          9.     Navient rejected Plaintiffs' efforts to seek private loan cancellation by, among other actions,  
18 disclaiming the existence of Plaintiffs' rights, later claiming to have evaluated and rejected the claims  
19 raised, and by erroneously seeking to divert Plaintiffs to the federal government for cancellation of their  
20 private loans.

21          10.    Navient's responses misled and deceived Plaintiffs about the possibility of private loan  
22 cancellation and the existence of a process to obtain cancellation.

23          11.    Navient caused further damage by continuing to collect from Plaintiffs after they asserted  
24 their rights to cancellation and requested Navient and its agents to stop collection.

25          12.    The existence of the private loans inflicts injury on Plaintiffs every day.

26          13.    Plaintiffs bring this lawsuit for damages related to Defendants' misrepresentations about  
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1 Plaintiffs' rights to cancellation of their private student loans and related to Defendants' persistent  
2 collection actions even after Plaintiffs informed Defendants that they were asserting their rights to  
3 cancellation and requesting cessation of collection.

4 14. Plaintiffs also seek a declaration that the loans are unenforceable and must be discharged.

5 **JURISDICTION AND VENUE**

6 15. This Court has jurisdiction over the subject matter of this action pursuant to Code of Civil  
7 Procedure § 410.10 and Code of Civil Procedure §1060.

8 16. Venue in this judicial district is appropriate pursuant to Code of Civil Procedure § 395(a).

9 **PARTIES**

10 17. Plaintiff Jorge Villalba resides in Los Angeles, California. Mr. Villalba took out private and  
11 federal student loans to enroll and pursue a Digital Entertainment and Game Design Bachelor's Degree at  
12 ITT in Sylmar, California.

13 18. Plaintiff Alicia Villalba resides in Los Angeles, California. Ms. Villalba is Mr. Villalba's  
14 mother and is a co-signer of some of the private loans that Mr. Villalba took out to attend ITT.

15 19. The true names and capacities, whether individual, corporate (including officers and directors  
16 thereof), associate or otherwise of Defendants sued herein as DOES 1 through 10, inclusive, are unknown  
17 to Plaintiffs, who therefore sues these Defendants by such fictitious names. Plaintiffs is informed and  
18 believes, and alleges that each Defendant designated as a DOE is involved in or is in some manner  
19 responsible as a principal, beneficiary, agent, co-conspirator, joint venturer, alter ego, third party  
20 beneficiary, or otherwise, for the agreements, transactions, events and/or acts hereinafter described, and  
21 thereby proximately caused injuries and damages to Plaintiffs. Plaintiffs requests that when the true names  
22 and capacities of these DOE Defendants are ascertained, they may be inserted in all subsequent  
23 proceedings, and that this action may proceed against them under their true names.

24 20. On information and belief, one or more of Defendants Sallie Mae Bank, Navient Corporation,  
25 Navient Solutions LLC, Navient, Navient Credit Finance Corporation, or DOES 1-10 is the holder of  
26 Plaintiffs' private student loans.  
27  
28

1           **Sallie Mae Bank**

2           21. Defendant Sallie Mae Bank is a Utah corporation with its principal place of business located  
3 at 175 South West Temple, Salt Lake City, Utah 84101.

4           22. On information and belief, Sallie Mae Bank originated Plaintiffs’ private student loans and all  
5 of Plaintiffs’ private student loan promissory notes identify the lender as “Sallie Mae Bank Murray, Utah.”

6           23. The co-signer notices issued with respect to two of the private student loans identify the  
7 lender as “Sallie Mae Bank.”

8           24. Sallie Mae Bank was a subsidiary of the “old” SLM Corporation that existed until 2014 and  
9 remains a subsidiary of the “new” SLM Corporation.

10           25. On information and belief, in the 2014 split of the “old” SLM Corporation, Navient  
11 Corporation assumed liability for Plaintiffs’ private student loans from Sallie Mae Bank or its successors.  
12

13           **Navient Corporation**

14           26. Navient Corporation is a Delaware corporation with its principal executive offices located at  
15 123 Justison Street, Wilmington, DE 19801.

16           27. On information and belief, Navient Corporation does business as Navient, at the same address  
17 listed above.

18           28. On at least two occasions between March 2019 and September 2019, Financial Asset  
19 Management Systems Inc. (FAMS) and Asset Recovery Solutions, LLC represented to Plaintiffs in writing  
20 that “Navient” was the “Current Creditor” or “Creditor” of their private student loans.

21           29. On November 21, 2018, Jen N. Russell, of the Office of the Customer Advocate for “Navient”  
22 Department of Education Loan Servicing, wrote a letter to Mr. Villalba.

23           30. On February 26, 2019, Nedra Philip, of the Office of the Customer Advocate for “Navient”  
24 wrote a letter to Mr., Villalba, stating that “Navient” currently services a Private Tuition Answer Loan and  
25 three private College Advantage loans.  
26

27           31. Plaintiffs’ credit report shows that the current creditor on their private student loans is  
28 “Navient.”

1           **Navient Solutions, LLC.**

2           32. Navient Solutions, LLC, is a Delaware limited liability company and a wholly-owned  
3 subsidiary of Navient Corporation, with its principal executive offices located at 13865 Sunrise Valley  
4 Drive, Herndon, VA 20171.

5           **Navient Credit Finance Corporation**

6           33. Defendant Navient Credit Finance Corporation is a Delaware corporation with its principal  
7 place of business located at 2001 Edmund Halley Drive, Reston, VA, 20191.

8           34. Navient Credit Finance Corporation was formerly known as SLM Education Credit Finance  
9 Corporation, NM Education Loan Corporation, and SLM Education Credit Management Corporation.

10           35. The Navient.com individual loan website portal for student loan borrowers identifies the  
11 “Lender” of Plaintiffs’ private student loans as “NAVIENT CREDIT FINANCE CORP.”

12           36. Mr. Villalba’s individual website portal lists the following private student loans: 5993 Tuition  
13 Answer, 3765 College Advantage, 1-07 College Advantage, and 1-11 College Advantage (hereinafter  
14 “Plaintiffs’ private student loans”).

15           37. In communications to Plaintiffs in January and February 2020, Weltman, Weinberg, & Reis  
16 Co., LPA represented to Plaintiffs in writing that the “Current Creditor” on their private student loans was  
17 “NAVIENT CREDIT FINANCE CORPORATION.”

18           **All Defendants**

19           38. On information and belief, Defendants retained multiple collection agencies to collect on  
20 Plaintiffs’ private student loans, including Asset Recovery Solutions, LLC and Financial Asset  
21 Management Systems Inc. (FAMS).

22           39. Defendants are regularly engaged in the collection of debts from consumers using the mail  
23 and telephone; defendants are “debt collectors” as defined by the Rosenthal Fair Debt Collections Practices  
24 Act (“Rosenthal Act”), California Civil Code § 1788.2(c).

25           40. Defendants are all entities or individuals who contributed to or participated in, or authorized  
26 the acts or conspired with the named Defendants to commit the acts and do the things complained of which  
27  
28

1 caused the injuries and damages to Plaintiff as set forth below.

2 41. Plaintiffs are “debtors” as defined by the Rosenthal Act, California Civil Code § 1788.2(h).

3 42. The purported debts which Defendants attempted to collect from Plaintiffs were “consumer  
4 debts” as defined by the Rosenthal Act, California Civil Code §1788.2(f).

5  
6 **BACKGROUND**

7 *Federal Student Loans*

8 43. The Higher Education Act of 1965 (“HEA”) provides the statutory authorization for federal  
9 student loans, including the Direct Loan and Federal Family Education Loan programs (“FFEL”), 20  
10 U.S.C. §§ 1071, 1087a.

11 44. The federal government originates and owns Direct Loans. In contrast, private lenders  
12 originated FFEL loans with minimal risk due to federal government reinsurance for losses. As of July  
13 2010, FFEL loans are no longer issued.

14 45. Direct and FFEL loan statutes, regulations, and promissory notes provide that acts or  
15 omissions of the school attended by the borrower that give rise to a cause of action under applicable state  
16 law provide a basis for discharge (cancellation) of the borrower’s loans (a “Borrower Defense  
17 Application”). 20 U.S.C. §§ 1087e(a)(1), 1087e(h); 34 C.F.R. §§ 682.209(g), 685.206(c)(1).

18 46. A successful Borrower Defense Application can result in cancellation of a borrower’s  
19 remaining obligation on the loan, return of money already collected, removal of negative credit reporting  
20 associated with the loan, and/or restoration of eligibility for federal financial aid.

21  
22 *Private Student Loans*

23 47. Many students take out private student loans to supplement, or in some cases, replace federal  
24 aid. Private student loans are not guaranteed by the federal government, often have much higher interest  
25 rates than federal loans, and generally lack affordable or flexible repayment plans.

26 48. There was a thriving third-party private student lending market led by Sallie Mae (now  
27 Navient) at the time Mr. Villalba enrolled at ITT. At the time, Sallie Mae was a loan originator in the now-  
28

1 defunct federal guaranteed loan program and also a leader in private student loan originations, including  
2 subprime student loans.

3 49. Many of the loans Sallie Mae made to for-profit school students included hallmarks of  
4 predatory mortgage loans, including exorbitant interest rates and fees and little or no underwriting  
5 standards.

6 50. The Federal Trade Commission’s longstanding Rule on Preservation of Consumers’ Claims  
7 and Defenses (referred to as the “Holder Rule”) is a federally-based path to relief for all consumers,  
8 including students. The Holder Rule prevents creditors from profiting from illegal consumer practices  
9 while insulating themselves from consumer claims and defenses against sellers. The Holder Rule allows  
10 consumers to raise seller-related claims against any holder of their credit agreements by requiring all  
11 covered entities, including for-profit colleges, to include the following language in every credit agreement:

12 ANY HOLDER OF THIS CONSUMER CREDIT CONTRACT IS SUBJECT TO  
13 ALL CLAIMS AND DEFENSES WHICH THE DEBTOR COULD ASSERT  
14 AGAINST THE SELLER OF GOODS OR SERVICES OBTAINED  
15 PURSUANT HERETO OR WITH THE PROCEEDS HEREOF. RECOVERY  
16 HEREUNDER BY THE DEBTOR SHALL NOT EXCEED AMOUNTS  
17 PAID BY THE DEBTOR HEREUNDER.

18 *See* 16 C.F.R. § 433.2; *see also* 40 Fed. Reg. 53,506, 53,524 (Nov. 18, 1975).

19 51. Through the Holder Rule, student loan borrowers can assert against any holder of their private  
20 student loans any claim or defense that they could assert against the school.

21 52. Plaintiffs’ private student loan notes contain or should have contained the Holder Rule  
22 language.

23 *ITT Technical Institute*

24 53. Until its closure and subsequent bankruptcy in September 2016, ITT owned and operated  
25 approximately 140 campuses in 38 states, and an online division.

26 54. ITT consistently and relentlessly pitched its programs to students as sound investments with  
27 healthy returns in the form of lucrative employment and lifelong careers.  
28

1           55. ITT deliberately and severely underinvested in the resources needed to deliver on its promises  
2 and also mislead and lied to students to get them to enroll and stay enrolled.

3           56. Throughout the years, numerous federal agencies investigated ITT for wrongdoing. These  
4 agencies included the Department of Justice, the Consumer Financial Protection Bureau, and the Securities  
5 and Exchange Commission.

6           57. Over a dozen states attorneys' general offices also investigated ITT including Kentucky,  
7 Massachusetts, and California.

8           58. The Consumer Financial Protection Bureau filed suit against ITT in 2014, and the  
9 Massachusetts's Attorney General filed suit against the company in 2016.

10           59. In 2010, the U.S. Senate's Committee on Health, Education, Labor and Pensions (HELP  
11 Committee) investigated ITT as part of a major review of abuses in the for-profit higher education industry.  
12 The HELP Committee published its findings in 2012.

13           60. The HELP Committee found that ITT, among other abusive practices, trained recruiters to  
14 aggressively pursue prospective students and to mislead prospective students about the cost of attending the  
15 school, and that ITT manipulated its job placement data by using flexible definitions to determine whether  
16 students were employed in their field.  
17

18           *The Department of Education's Investigations*

19           61. The Department of Education also investigated student claims of wrongdoing against ITT,  
20 and other schools, under California law. The Department's findings were detailed in several memos, from  
21 its Borrower Defense Unit to Under Secretary Ted Mitchell, which include one dated January 10, 2017  
22 (ITT BDU Memo), and another one, dated October 24, 2016 (CCI BDU Memo).

23           62. The Department corroborated student claims cited in the ITT BDU Memo and in the CCI  
24 BDU Memo with employee testimony and ITT's own records.

25           63. The ITT BDU Memo revealed that the Department made several findings about ITT, which  
26 include, but are not limited to, the following:  
27  
28



1 • ITT’s consistent representations “that all graduates obtained jobs after graduation, or  
2 relatedly, that its students were guaranteed employment after graduation... .[] were false and misleading,”  
3 ITT BDU Memo at 1; and

4 • The misleading claims of guaranteed job placement were “factually consistent, pervasive  
5 across campuses, and constant over a span of years.” ITT BDU Memo at 1.

6 64. The Department stated in the ITT BDU Memo that “...given this extensively well-  
7 documented, pervasive, and highly publicized misconduct, the Department has determined that the value of  
8 an ITT education-like Corinthian-is likely either negligible or non-existent.” ITT BDU Memo at 14.

9 65. The CCI BDU memo centered on Everest and Wyotech, two brands of the now defunct  
10 Corinthian Colleges Inc. chain of schools, but made general findings as to the illegality of making  
11 misrepresentations to students about the transferability of credits under California law.

12 66. In the CCI BDU Memo, the Department finds that Everest and Wyotech “consistently misled  
13 prospective students about the transferability of credits earned at their campuses in two ways. First, school  
14 staff made explicit representations regarding transferability. Second, staff strongly implied transferability  
15 by emphasizing the school's accreditation status.” CCI BDU Memo at 1.

16 67. As recognized in the ITT BDU Memo and the CCI BDU Memo, it is a violation of California  
17 state law, specifically the unlawful and fraudulent prongs of California’s Unfair Competition Law, to make  
18 guarantees about job placement and to make misrepresentations about the transferability of credits. ITT  
19 BDU Memo at 7; CCI BDU Memo at 10.

20 68. The ITT BDU Memo and the CCI BDU Memo further recognized that, under California law,  
21 the appropriate measure of damages for such conduct is full loan discharge and refund of payments made  
22 (subject to statute of limitations). *Id.*

23  
24 **FACTUAL ALLEGATIONS**

25 **ITT’s Fraud, Plaintiffs’ Damages and Search for Cancellation**

26 69. Mr. Villalba did not receive the promised benefits of attending ITT.  
27  
28

1           70. In October 2015, Mr. Villalba submitted a Borrower Defense Application to the Department  
2 of Education, which detailed the ways in which ITT misled and lied to Mr. Villalba. Mr. Villalba's  
3 Borrower Defense Application is attached as Exhibit 1 and incorporated by reference.

4           71. In this Application, Mr. Villalba asserted several legal violations, including but not limited to  
5 misrepresentations about job preparation, programmatic accreditation, financial aid practices, instructor and  
6 course quality, availability of hands-on training and equipment, credit transferability, and job placement  
7 services.  
8

9           72. Among other assertions in the Borrower Defense Application, Mr. Villalba stated that the ITT  
10 recruiter told him that getting a job with an ITT degree would be really easy because large employers, like  
11 Disney, Universal, and WB, loved hiring ITT students and that the school had a well-recognized worldwide  
12 reputation. Mr. Villalba was told that he would be able to make about \$64,000 once he graduated with a  
13 bachelor's degree.

14           73. Mr. Villalba also asserted in his Application that the recruiter told him that his credits were  
15 transferable and that he could go anywhere he wanted to continue his education. However, when he was  
16 halfway through his bachelor's degree program, dissatisfied with his education at ITT, Mr. Villalba thought  
17 about transferring. He inquired at another school and did some online research, and found out that ITT  
18 credits did not transfer. Mr. Villalba felt compelled to continue at ITT rather than starting over somewhere  
19 else.  
20

21           74. Mr. Villalba asserted in his Application that even though he graduated from ITT with a  
22 bachelor's degree, he has been unable to find the promised lucrative employment in the field and was  
23 worse off than before enrolling at ITT when he only had a high school degree.

24           75. In this Application, Mr. Villalba asserted facts about the injuries he and his family suffered  
25 and continued to suffer due to ITT's illegal practices including financial problems, marital strain, and  
26 ruined credit.  
27  
28

1           76. In December 2017, Mr. Villalba received a notice that the Department of Education had  
2 approved his Borrower Defense Application and that all of his remaining federal loans would be  
3 discharged.

4                           *Plaintiffs Assert Right to Cancellation and Defendants' Response*  
5

6           77. On November 8, 2018, undersigned counsel's office, on behalf of Mr. Villalba, sent  
7 Defendant Navient a letter ("Plaintiffs' November 2018 Letter" or "November 2018 Letter") asserting a  
8 complete defense to repayment on Plaintiffs' private student loans. Plaintiffs provided detailed information  
9 about ITT's legal violations, including evidence of ITT's wrongdoing and copies of Mr. Villalba's federal  
10 government Borrower Defense Application and approval.

11           78. Plaintiffs' November 2018 Letter stated that Plaintiffs were relieved of any obligation to pay  
12 Plaintiffs' private student loans.

13           79. In Plaintiffs' November 2018 letter, Plaintiffs asked Navient to recognize that the private  
14 student loans were unenforceable and immediately and permanently cease any collection attempts,  
15 including through any third-party debt collectors. The letter also requested that Navient reimburse Plaintiffs  
16 for amounts already paid (voluntarily or involuntarily) toward these unenforceable and invalid student  
17 loans, and remove any negative reports associated with Plaintiffs' private ITT student loans from the  
18 reports of any consumer credit agency.

19           80. Navient's initial written response to Plaintiffs' November 2018 Letter came in a letter dated  
20 November 21, 2018 ("Navient's November 2018 Response" or "November 2018 Response"). Navient  
21 followed up with another letter on February 26, 2019 ("Navient's February 2019 Response" or "February  
22 2019 Response").  
23

24           81. Navient's responses to Plaintiffs' private loan Borrower Defense Application violated state  
25 law including by disclaiming the existence of Plaintiffs' rights, later claiming to have evaluated and  
26 rejected the claims raised, and by erroneously seeking to divert Plaintiffs to the federal government for  
27 cancellation on their private loans.  
28

1           82. Navient’s misrepresentations about Plaintiffs’ rights included its statement in Navient’s  
2 November 2018 Response that it does not “...have a discharge review process for private student loan  
3 borrowers who claim a defense to repay a private loans based on misinformation from the school, or the  
4 quality of education they received at their school.”

5           83. Contradicting this statement that Navient did not have a discharge review process, in  
6 Navient’s February 2019 Response, Navient purported to have conducted a review and concluded that the  
7 documents Plaintiffs submitted were insufficient to prove fraud by the school.  
8

9           84. In the February 2019 Response, Navient did not reference any of the legal claims Plaintiffs  
10 raised other than fraud.

11           85. Despite the request to cease communications in Plaintiffs’ November 2018 letter, Defendants  
12 directly and through third party collectors continued to contact Plaintiffs by phone and by mail. All of these  
13 contacts were attempts to collect debts.  
14

15           86. Defendants’ collection letters to Plaintiffs after Plaintiffs asserted their rights included, but are  
16 not limited to, separate letters to each Plaintiff from Financial Management Systems, Inc. (FAMS), dated  
17 September 26, 2019; separate letters to each Plaintiff from Weltman, Weinberg & Reis Co. dated January  
18 7, 2020, a letter from Weltman, Weinberg & Reis Co. to Mr. Villalba dated February 10, 2020, and several  
19 letters to Plaintiffs from Navient, including most recently on July 24, 2020, regarding payment delinquency  
20 and threatening “potential actions” and credit bureau reporting.

21           87. Plaintiffs, through their attorneys, sent copies of Plaintiffs’ November 2018 Letter along with  
22 explanatory cover letters to the third party debt collectors that communicated with Plaintiffs after they sent  
23 the November 2018 Letter to Defendant Navient.  
24

25           88. All of these letters were sent on behalf of Plaintiffs by attorneys or paralegals at the Legal  
26 Services Center, signed by such attorneys or paralegals, with clear contact information  
27  
28



- 1 c) Despite statements that no such process existed, purporting to conduct a review  
2 of Plaintiffs' claims and rejecting those claims without explaining the elements  
3 and nature of "fraud" that it used in making that determination;  
4  
5 d) Ignoring the fact that there are other seller-related claims in Plaintiffs' private  
6 loan defense to repayment application that Plaintiffs submitted on November 8,  
7 2018; and  
8  
9 e) Inaccurately advising Plaintiffs to send an application to the Department of  
10 Education to raise a defense to repayment of private loans.

11 97. Defendants further engaged in *unfair* business practices in violation of section 17200 because  
12 their conduct violates public policy embodied by the California Fair Debt Collection Practices Act  
13 ("Rosenthal Act") and the California Consumer Credit Reporting Agencies Act ("CCRAA").

14 98. Separately, Defendants have engaged in *unlawful* business practices in violation of section  
15 17200 by violating the Rosenthal Act, as discussed in Count 3, and by violating section 1785.25(a) of the  
16 CCRAA, as discussed in Count 4.

17 99. As a direct results of Defendants' conduct, Plaintiffs have suffered substantial harm and seek  
18 restitution and any and all damages available under California law.

## 19 COUNT 2

### 20 **(Declaratory Judgement That Plaintiffs Private Loans Are Unenforceable)**

21 100. Plaintiffs repeat, reallege, and incorporate by reference all previous allegations as though set  
22 forth herein.

23 101. A controversy exists between Plaintiffs and Defendants.

24 102. In his Borrower Defense Application for discharge of his federal student loans, Mr. Villalba  
25 asserted that ITT's conduct gave rise to causes of action under California Law, sections 17200 et seq. of the  
26 California Business & Professions Code for "unlawful," "unfair" and "fraudulent" business practices,  
27 sections 17500 et seq. of the California Business & Professions Code for untrue and misleading advertising,  
28

1 and sections 1700 et seq. of the Consumer Legal Remedies Act for unfair or deceptive acts or practices.

2 103. Plaintiffs have established a borrower defense to repayment on Plaintiffs' private student  
3 loans because ITT violated state law.

4 104. Under the terms of their private loan promissory notes, which include or should have included  
5 language mandated by the Holder Rule, the holder of Plaintiffs' private loans is subject to all claims and  
6 defense that Plaintiffs could bring against ITT.

7 105. Plaintiffs seek a declaration of their rights pursuant to Code of Civ. Proc. §1060 that they,  
8 pursuant to their promissory notes, have established a defense to their repayment obligations such that their  
9 private student loans are not enforceable.  
10

11 **COUNT 3**

12 **(Violation of the Rosenthal Fair Debt Collection Practices Act)**

13 106. Plaintiffs repeat, reallege, and incorporate by reference all previous allegations as though set  
14 forth herein.  
15

16 107. Defendants violated the Rosenthal Act, by including but not limited to, the following:

17 a) The Defendants violated California Civil Code §1788.14(c) by communicating  
18 with the Plaintiffs after the Plaintiffs' attorney notified the Defendants that the  
19 Plaintiffs were represented by an attorney;

20 b) The Defendants violated California Civil Code §1788.17 by failing to comply  
21 with 15 U.S.C. § 1692b(6) by communicating with Plaintiffs after the collector knew  
22 that the Plaintiffs were represented by an attorney;

23 c) The Defendants violated California Civil Code §1788.17 by failing to comply  
24 with 15 U.S.C. § 1692c(a)(2) by communicating with Plaintiffs after the collector  
25 knew that the Plaintiffs were represented by an attorney;

26 d) The Defendants violated California Civil Code §1788.17 by failing to comply  
27 with 15 U.S.C. § 1692c(c) by communicating with Plaintiffs after they requested that  
28

1 the collectors cease communication;

2 e) The Defendants violated California Civil Code §1788.17 by failing to comply  
3 with 15 U.S.C. § 1692e by using false, deceptive, or misleading representations or  
4 means in connection with the collection of a debt;

5 f) The Defendants violated California Civil Code §1788.17 by failing to comply  
6 with 15 U.S.C. § 1692e(2)(A) by giving the false impression of the character, amount  
7 or legal status of the alleged debt; and

8 g) The Defendants violated California Civil Code §1788.17 by failing to comply  
9 with 15 U.S.C. § 1692e(8) by communicating or threatening to communicate credit  
10 information which is known or which should be known to be false, including the  
11 failure to communicate that a disputed debt is disputed.  
12

13 108. Defendants' acts as described above were done intentionally with the purpose of coercing  
14 Plaintiffs to pay their private student loan debt.

15 109. As a proximate result of Defendants' violations enumerated above, Plaintiffs have been  
16 damaged in amounts which are subject to proof.

17 110. Defendants' violations of the Rosenthal Act were willful and knowing. Defendants are  
18 therefore liable to Plaintiffs for a declaratory judgment that Defendants' conduct violated the Rosenthal Act  
19 and Plaintiffs' actual damages, statutory damages, and attorney's fees and costs pursuant to California Civil  
20 Code §1788.30.  
21

## 22 **COUNT 4**

### 23 **(Violation of the California Consumer Credit Reporting Agencies Act)**

24 111. Plaintiffs repeat, reallege, and incorporate by reference all previous allegations as though set  
25 forth herein.

26 112. The California Consumer Credit Reporting Agencies Act, Cal. Civ. Code §§ 1785, et seq.  
27 ("CCRAA") prohibits unlawful credit reporting.  
28





**JURY DEMAND**

Plaintiffs demand trial by jury on all issues so triable.

DATED: September 10, 2020

BY: 

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