IN THE COURT OF CLAIMS OF OHIO

CAITLYN WAITT, Plaintiff v. **KENT STATE UNIVERSITY** Defendant	Case No. 2020-00392JD **KENT STATE UNIVERSITY'S MOTION TO DISMISS**

1. Introduction and Summary of the Allegations Against Kent State University.

In March 2020, Kent State University ("University"), like most other colleges and universities, faced the difficult decision of what to do in the wake of a worldwide pandemic. For the protection of the health and safety of its 30,000-plus students and staff, the University closed buildings, including those at its regional campuses, and moved all in-person classes to a remote learning format. During this time, the Governor of the State of Ohio as well as the Ohio Department of Health issued multiple Orders mandating health and safety provisions responding to the COVID-outbreak. Consistent with the Orders and in the best interest of its students and staff, the University considered and then took immediate action to ensure the health and safety of its students and personnel while continuing to provide a quality education without delay. Fortunately, the University continued to provide the same first-rate education with the same quality professors at the same outstanding University. The result of the University's responsible actions was that students completed the Spring 2020 semester on-time and with full credit hours while continuing to matriculate toward their goal of graduation - just like semesters offered in the past. Still seemingly dissatisfied, Plaintiff is suing the University seeking refunds of tuition and fees for the portion of the semester that was conducted remotely.

The Complaint alleges that students paid tuition for a first-rate education and an on-campus, in-person educational experience for the entire semester. (Complaint, ¶¶ 1, 5, 8, 16.) What they were allegedly provided was a "materially deficient and insufficient alternative." *Id.* at ¶ 5; *see also id.* at ¶ 27. The remote learning method was supposedly "sub-par in practically every aspect." *Id*. at ¶¶ 31, 35. The University "failed to provide the quality of education and services and facilities" the students paid for. *Id*. at ¶ 55. According to the Plaintiff, remote learning was subpar because some professors posted PowerPoint presentations and reading assignments online leaving students to self-learn the materials. *Id*. at ¶ 31. Plaintiff further opines that the format was worthless because it did not require memorization and allowed for open book testing. *Id*. And she believes that students were also somehow deprived of "dialogue, feedback and critique" and classroom interaction when classes no longer met in-person. *Id*. at ¶ 32. Finally, students were given the option to take a "pass/no pass" mark instead of traditional letter grades, which "provides educational leniency that does not require motivation or discipline." *Id.* at ¶¶ 27, 33.

The essence of the claim against the University is obviously educational malpractice. Plaintiff's attorneys know Ohio courts do not recognize such a claim so they covertly attempt to disguise their assertions as breach of contract, unjust enrichment and conversion causes of action. The University respectfully requests this Court to recognize the claim for what it is – educational malpractice – and dismiss it. Should, however, this Court find the claim to be anything other than educational malpractice, the University asks that Plaintiff's causes of action be dismissed pursuant to Civ.R. 12(B)(6) because the Complaint fails to state a claim upon which relief can be granted. In short, the Plaintiff's breach of contract claim fails because it does not allege sufficient facts to support the conclusion that the University agreed to provide in-person education and because it does not seek compensatory damages. The unjust enrichment claim woefully fails to contend how

the University was somehow enriched and unjustly so. Finally, the conversion claim cannot survive dismissal because the Complaint does not identify any property that could be the subject of conversion. As a result, Plaintiff's failure to plead any factual specificity to support its allegations is fatal to the pleadings and the Complaint must be dismissed as a matter of law.

In all three causes of action, the Complaint seeks as damages the disgorgement of an unspecified amount of money. (Complaint, ¶¶ 7, 38, 50, 57, 65.) It asks for the "return of the pro-rated portion of its tuition, * * * and Mandatory Fees, proportionate to the amount of time that remained in the Spring Semester 2020 * * * when the University closed and switched to online distance learning." *Id*. at ¶ 7.[1] For Summer, it seeks a refund of tuition and fees for the "entirety of the Summer 2020." *Id.* Under this theory of damages, the Plaintiff essentially demands that students who willingly and knowingly enroll in remote courses for Summer 2020 or later terms not have to pay tuition but instead be allowed to enroll in college classes for free, be taught for free and continue to matriculate toward graduation for free. The Plaintiff demands academic credit from a four-year, public educational institution of higher learning for nothing. If the Plaintiff truly thinks a term of remote learning is worthless, she could choose to not enroll or could withdraw before the term begins for a full refund. Accordingly, Plaintiff's claims regarding any semester *after* Spring 2020 certainly must be dismissed. For Spring 2020 term, her breach of contract and unjust enrichment claims fail because the Complaint neither alleges if or how students were damaged nor how the University was enriched.

The Complaint further alleges that the University must refund to students who moved out of residence halls after March 30, 2020, "a pro-rated portion of the housing and dining fee for the days left in the semester after they moved out." (Complaint, ¶¶ 7, 37.) Students who moved out

[1] The Complaint seeks a refund of the Mandatory fees and tuition; however, the Mandatory Fees listed are the components of Tuition. (Complaint, ¶¶ 1, 15.) They are one in the same.

before March 30, 2020, were provided a refund and are not part of this lawsuit, but the students who moved out after March 30, 2020, were allegedly not provided a refund. *Id*. at ¶¶ 1, 4. The Court should not require the University, which continued to provide housing and dining services for the remainder of Spring 2020, to refund the students who elected to remain in the residence hall after the March 30th deadline. It is uncontroverted fact that the University offered a refund to the students if they moved out before March 30, 2020. However, the Plaintiff, who did not even live in a residence hall, asserts that those students who refused the University's refund offer, and chose to stay in the residence halls after March 30th should still get a refund. There can be no cause of action against the University for housing and dining fees because the University continued to provide the service thereby not breaching any promise nor being unjustly enriched.

The University asks the Court to address its Civ.R. 12(B)(6) motion now, before it considers Waitt's allegation that she alone can represent the interests of every student who was enrolled at the University during the Spring 2020, Summer 2020, and future semesters and paid tuition and fees and those who lived on campus, but did not move out before March 30, 2020. *See, e.g., Reynolds v. Personal Serv. Ins. Co.*, Case No. 93AP-20 (10th Dist. June 15, 1993), 1993 Ohio App. LEXIS 3096, *9 ("The trial court also did not have a duty to certify or deny the class action because the underlying claim had no merit. In the instant action, the trial court granted the motion for summary judgment and, therefore, there was no reason for the court to determine whether or not a class action could be maintained.").

2. The Complaint should be dismissed pursuant to Civ.R. 12(B)(6) for failure to state a claim.

Under Civ.R. 12(B)(6), a complaint must be dismissed if it fails to state a claim for relief. Dismissal is appropriate when a plaintiff can prove no set of facts in support of his or her claim which would entitle him or her to relief. *O'Brien v. Univ. Community Tenants Union, Inc*., 42 Ohio

St.2d 242, 327 N.E.2d 753 (1975). In addressing a motion to dismiss under Civ.R. 12(B)(6), the nonmoving party is entitled to the presumption that all factual allegations made in the complaint are true and all reasonable inferences to be drawn from those allegations are to be made in favor of the nonmoving party. *Coffman v. Dep't of Rehab. & Corr.*, 10th Dist. No. 12AP-816, 2013-Ohio-3829, ¶ 5. However, courts will not "consider unsupported conclusions that may be included among, but not supported by, the factual allegations of the complaint because such conclusions cannot be deemed admitted and are not sufficient to withstand a motion to dismiss." *Wildi v. Hondros College,* Franklin Co. No. 09AP-346, 2009-Ohio-5205, ¶10. When the plaintiff fails to allege what is required for a viable claim, dismissal under Civ.R. 12(B)(6) is required.

a. The Court must defer to the academic decisions of the University and dismiss the disguised educational malpractice claim.

"A trial court is required to defer to academic decisions of a college unless it is perceived that there existed 'such a substantial departure from accepted academic norms as to demonstrate that the person or committee responsible did not actually exercise professional judgment.'" *Jefferson v. Univ. of Toledo*, Ct. of Cl. No. 2008-11818, 2012-Ohio-3645, ¶ 6, citing *Bleicher v. Univ. of Cincinnati College of Med.*, 78 Ohio App.3d 302, 308, 604 N.E.2d 783 (1992), quoting *Regents of the Univ. of Mich. v. Ewing*, 474 U.S. 214, 225, 106 S. Ct. 507, 88 L. Ed. 2d 523 (1985). The Complaint does not (nor could it) allege that the University used anything but the highest amount of professional judgment. In the face of a fast-spreading, worldwide deadly pandemic, the University made the lawful academic decision to continue with remote learning rather than putting its students and faculty at risk or canceling the semester halfway through. Interestingly, Plaintiff appears to really argue that the University should have continued face-to-face instruction thereby exposing its students and staff to a disease that has killed tens of thousands of people worldwide and shut down businesses throughout the United States. Or perhaps Plaintiff

is arguing the University should have shut down all academic learning mid-semester, issued no academic credit and issued refunds to all students, thereby setting all degree seekers back at least a semester. Plaintiff's reasoning in this lawsuit is illogical and nonsensical; plainly – a grab for money. Considering nearly every college and university converted to remote learning at this same time, it can hardly be said that the University's remote learning was a "substantial departure from accepted academic norms."

The Complaint seeks damages in the amount of the purported difference in value between in-person and remote education modalities. According to the Complaint, remote education had zero value even when students earn full credit. The Court is not in the position to evaluate the value of the educational methods for each of the thousands of courses offered by the University.

It is for these reasons that Ohio does not recognize educational malpractice claims. No matter how counsel labels the claims – breach of contract, unjust enrichment, or conversion – the substance is ultimately about the supposed inadequate alternative method of learning, that is, remote learning when compared to in-person education. *Funk v. Rent-All Mart, Inc.*, 91 Ohio St.3d 78, 80, 742 N.E.2d 127 (2001) ("* * * look to the actual nature or subject matter pleaded in the complaint."). Even though students completed their Spring 2020 courses and received full credit, students allegedly received subpar education when they could not attend class in the same room as the professor. (Complaint, ¶¶ 5, 27, 31-33, 35, 55.) This is a classic educational malpractice claim, which Ohio courts do not recognize. *Leiby v. Univ. of Akron*, 10th Dist. Franklin No. 05AP-1281, 2006-Ohio-2831, ¶ 27.

"A claim that educational services provided were inadequate constitutes a claim for 'educational malpractice'" regardless of how the lawyers characterize the cause of action. *Lawrence v. Lorain County Community College*, 127 Ohio App.3d 546, 549, 713 N.E.2d 478 (9th

Dist.1998), citing *Matulin v. Academy of Court Reporting*, 1992 Ohio App. LEXIS 1899, * 13 (Apr. 8, 1992), Summit App. No. 14947, unreported. In *Lawrence*, the plaintiff brought claims for breach of contract, breach of duty of fair dealing and violations of the Ohio Consumer Sales Practices Act. *Lawrence*, 713 N.E.2d 478 at 479. Lawrence pointed to the catalog of course offerings and academic policies as the contract and asserted that the College breached the contract by providing substandard education, guidance and supervision. *Id*. at 480. The trial court granted defendants Civ.R. 12(B)(6) motion to dismiss noting the entire complaint alleged educational malpractice and plaintiff merely attempted to circumvent the fact that education malpractice is not a recognized cause of action. *Id*. at 479. The appellate court affirmed the trial court's dismissal of the complaint noting that plaintiff made no claim that the college violated a specific provision of the catalog, but instead his claims about *substandard* education were educational malpractice in disguise. *Id*. at 480.

In a similar case out of New York, students anticipated their biomedical technology program to be taught according to the course syllabus, but when it was taught in an alternative manner, they sued alleging inadequate instruction and divergence from the printed syllabus. *Alligood v. County of Erie*, 299 A.D.2d 840, *840, 749 N.Y.S.2d 349 (Supreme Ct. of NY, Appellate Division, 4th Dept. 2002). The court found that the essence of plaintiff's breach of contract and breach of fiduciary duty causes of action was educational malpractice, which is not a cognizable cause of action in New York. *Id*. at *841. (Defendants also won summary judgment on the fraudulent misrepresentation cause of action, as "[c]laims of misrepresentation as to the quality or comparative quality of the education provided by defendants are not statements of fact capable of proof." Such statements were, instead, opinions which did not provide a basis for imposing liability.)

The Complaint here attempts to circumvent the fact that educational malpractice is not a recognized cause of action by asserting breach of contract, unjust enrichment, and conversion. Unable to point to any specific contract provision that promises in-person education or to any behavior that would imply that term in fact, the substance of the claim is simply that remote learning for one-half semester was subpar, inadequate, and substandard. The entirety of the Complaint is a classic educational malpractice claim; it must be dismissed in full.

b. The breach of contract claim is not sufficiently pled.

Should the court find the breach of contract claim to be anything other than one for educational malpractice, Plaintiff's failure to properly plead sufficient facts to support her conclusion that the University agreed to provide in-person education necessitates dismissal.

The Complaint conclusively asserts without factual support that "[t]he University agreed to, among other things, provide an in-person and on-campus live education, University housing and dining options, as well as the services and facilities to which the Mandatory Fees they paid pertained throughout the Spring 2020 semester." (Emphasis added.) (Complaint, ¶ 48.) A plaintiff can easily avow a term to the contract by attaching it to the complaint. In fact, she must do so if it is based on a written document, but if she cannot, she must state in the complaint the reason for not attaching it. Civ.R. 10(D). Plaintiff's Complaint at bar is totally devoid of attachment and such statement; thus, the only way for there to be an "in-person education" term to the contract is if the Complaint pled facts sufficient to demonstrate how, by words or action, that term came about.

Moreover, critical to the Complaint, is that it fails to assert sufficient facts to plausibly demonstrate such a promise. It lacks any recitation of *how* the University agreed to such terms. Furthermore, there is absolutely no indication that the University, by its words or actions, manifested any intent to be bound by a term requiring it to provide in-person, hands-on education

in exchange for tuition or the unspecified facilities and services in exchange for fees. Without sufficient facts pled, the Complaint cannot and should not be allowed to rest on unsupported conclusions. The Complaint must be dismissed.

The breach of contract claim also fails because it does not seek compensation for an actual damage that resulted from a breach. (Citations Omitted.) *Eckel v. Bowling Green State Univ.*, Franklin Co. No. 11AP-781, 2012-Ohio-3164, ¶ 44. ("In order for an individual to recover on a contract cause of action, it is necessary to show that that individual has been damaged by a breach of contract.") Breach of contract damages are meant to compensate plaintiffs for the losses suffered as a result of the alleged breach. But according to the Complaint, the students have allegedly "suffered damages * * * in the amount of the prorated portion of tuition and Mandatory Fees they each paid." (Complaint, ¶ 50.) This is not a compensable damage because it is not measured by an amount intended to make the Plaintiff's injury whole, but instead asks the Court to force the University to disgorge an unspecified amount it improperly retains. The Plaintiff's demand, as pled, does not consider the harm or injury she actually experienced (if any). Because the Complaint fails to allege actual damages – which is a required element to establish a *prima facie* case of breach of contract – the pleading is deficient and the breach of contract claim must be dismissed.

Further, the basis of Plaintiff's breach of contract claim cannot stand for the Summer 2020 term or any future term. Going into Summer 2020, it was very clear that the University was offering its courses in the remote learning format. By enrolling, paying tuition, and failing to withdraw, the students knowingly and voluntarily accepted the conditions of the course offerings and received what they bargained for. There was no breach. Plaintiff's counsel cannot credibly argue that students can knowingly go into a summer of remote learning and earn full credit for

their courses but then ask for a refund. The Court must not allow the students' claims for Summer 2020 or any future term to survive a dismissal.

In addition, Plaintiff cannot bring claims for "future semesters" because there has been no damage for something that has not happened. Damages, again, are an essential element to a breach of contract claim and there are just simply none here. In addition, students can avoid incurring supposed damages by withdrawing enrollment if they do not agree to the new terms of their education. For these reasons, the Complaint fails to state a claim for breach of contract; such claim must be dismissed.

c. The Complaint fails to state a claim for unjust enrichment.

Should the court find the unjust enrichment claim to be anything other than one for educational malpractice, Plaintiff's failure to properly plead such a claim necessitates its dismissal. Under this cause of action, the Complaint again seeks the return of the prorated portion of tuition and fees for the remainder of Spring 2020 and the entirety of Summer 2020. (Complaint, ¶ 57.) The Complaint woefully fails to properly lay out an unjust enrichment claim because it neither asserts how the University was enriched nor provides any facts to support its conclusion that it was "unjust and inequitable" for the University to retain the prorated portion of tuition and fees. (Complaint, ¶ 56.)

The purpose of unjust enrichment claims "is not to compensate the plaintiff for any loss or damage suffered by him but to compensate him for the benefit he has conferred on the defendant." *Johnson v. Microsoft Corp.*, 106 Ohio St.3d 278, 2005-Ohio-4985, 834 N.E.2d 791, ¶ 21, citing *Hughes v. Oberholtzer*, 162 Ohio St. 330, 335, 55 O.O. 199, 123 N.E.2d 393 (1954). Enrichment is not about what plaintiff lost, but what defendant has gained. "[N]ot only must there be an enrichment, but that enrichment must be unjust. 'Enrichment alone will not suffice to invoke

the remedial powers of a court of equity. Because [the plaintiff] is seeking the equitable remedies available under a claim of unjust enrichment, it must show a superior equity so that it would be **unconscionable** for [the defendant] to retain the benefit.'" (Emphasis added.) *Chesnut v. Progressive Cas. Ins. Co*., 166 Ohio App.3d 299, 2006-Ohio-2080, 850 N.E.2d 751, ¶ 30 (8th Dist.), citing *Directory Servs. Group v. Staff Builders Intl.*, Cuyahoga App. No. 78611, 2001 Ohio App. LEXIS 3108 (July 12, 2001). Plaintiff has not, and cannot, allege that the University used the monies collected from tuition and fees for anything other than legitimate purposes consistent with the University's mission and the education of the students. *See Moss v. Wayne State Univ. & Wayne State Univ. Bd. of Governors*, App. No. 286034, 2009 Mich. App. LEXIS 2491, at *6 (Dec. 1, 2009) ("[P]laintiff and other students gained a general benefit from the university's expenditures, which included spending in areas that would directly benefit students, such as on classroom and technological improvements. The university was not the sole recipient of a benefit: the students also benefited from these expenditures. Therefore, it was not inequitable for the university to retain the contingency fees under this theory.").

Pursuant to her unjust enrichment claim, Plaintiff seeks a return of the pro-rated portion of tuition and fees she paid the University for the period of time instruction was remote. (Complaint, ¶ 57.) Apparently, Plaintiff attempts to measure her recovery for unjust enrichment by the estimating the difference in value of educational modalities as opposed to any enrichment actually experienced by the University. Curiously, Plaintiff conjures up her measurement while alleging absolutely nothing about how the University was enriched. Surely the University was not enriched the full amount of the pro-rated tuition and fees when it continued to offer education and services to students in a modified, more complicated, and likely more expensive manner, and was nine months into a budget cycle when many of its budget dollars were already encumbered for things

like debt service fees and building maintenance. At the end of the day, Plaintiff's calculation of the University's so-called unjust enrichment is at best speculatory.

Because the Complaint failed to assert facts of how the University was enriched and enriched unjustly, the cause of action for unjust enrichment must be dismissed.

d. The Complaint fails to allege a necessary element of conversion.

In a last-ditch effort to try to formulate some sort of claim out of one that is really educational malpractice, Plaintiff's counsel desperately attempts to finesse their claim into one for conversion of money. The Complaint alleges that students have a right to services, facilities and in-person education, and by the University intentionally interfering with those rights, it has "retained monies that rightfully belong to" the students. (Complaint, ¶¶ 60, 61, 64.) Under such cause of action, the Complaint seeks the identical remedy as in the breach of contract and unjust enrichment claims. (Complaint, ¶ 65.)

"Conversion is recognized as any exercise of dominion or control wrongfully exerted over the personal property of another in denial of or under a claim inconsistent with his rights." *Ohio Tel. Equip. & Sales, Inc. v. Hadler Realty Co.*, 24 Ohio App. 3d 91, 93, 493 N.E.2d 289 (1985), citing *Railroad Co. v. O'Donnell*, 49 Ohio St. 489, 32 N.E. 476 (1892); *Fulks v. Fulks*, 95 Ohio App. 515, 121 N.E.2d 180 (1953). The three basic elements are (1) defendant's exercise of dominion or control (2) of Plaintiff's personal property, and (3) exercised wrongfully in denial of, or under a claim inconsistent with, the Plaintiff's rights. *Cozmyk Ents. v. Hoy*, 10th Dist. Franklin No. 96APE10-1380, 1997 Ohio App. LEXIS 2864, at *11-12 (June 30, 1997), citing *Ohio Tel. Equip. & Sales, supra*.

Generally, "an action for conversion will lie only where there has been a taking of identifiable, tangible personal property." *Wiltberger v. Davis*, 110 Ohio App. 3d 46, 55, 673

N.E.2d 628 (1996). "It is fundamental that a plaintiff in a conversion action must show title or rightful ownership of the chattel, including money, at the time of the alleged conversion." *Levens Corp. v. Aberth*, 9th Dist. No. 15661, 1993 Ohio App. LEXIS 727, *7, (Feb. 10, 1993). "In keeping with this requirement, a claim for conversion of money will lie only when the money at issue is **earmarked or is capable of identification**, such as money in a specific bag or certain coins or notes that have been entrusted to a defendant's care. The plaintiff must prove that there was an obligation to keep intact and deliver the specific, earmarked money rather than merely deliver a certain sum." (Emphasis added.) *Koda v. Medrametla*, 1st Dist. No. C-160219, 2016-Ohio-8020, ¶ 22, citing *Smith v. Boston Mut. Life Ins. Co*, 1st Dist. Hamilton No. C-120668, 2013-Ohio-2510, ¶ 11; *see also RAE Assocs. v. Nexus Communs., Inc.*, 2015-Ohio-2166, 36 N.E.3d 757, ¶ 33 (10th Dist.).

It is clear that students cannot bring a conversion claim against the University because they have no property or ownership rights to the money they say the University is retaining. There are no and were no earmarked or sequestered funds involved here that are in the University's possession. Specifically, Plaintiff fails to allege that the University was obligated to keep intact or deliver any specific funds. Plaintiff instead is asking the Court to award unspecified sums of money equal to the prorated amount of tuition and fees. (Complaint, ¶ 65.) This sum is not "identifiable, tangible personal property." Because the Plaintiff did not and cannot identify any property that could be the subject of a conversion claim, the claim fails and must be dismissed.

e. The Court must dismiss the causes of action regarding housing and dining charges because the University continued to provide the services if students wanted them.

Plaintiff's claims regarding housing and dining charges are different from her claims regarding tuition and fee payments. The Complaint only seeks to certify a class of students that

did not move out of the residence halls prior to March 30, 2020, because those who moved out before that date received a refund. With regard to the housing and dining payments for this subclass, the Complaint fails to state a claim for breach of contract, unjust enrichment and conversion for the same reasons as stated above, but also because the University did not breach the contract nor was it enriched when it continued to offer housing and dining to students after March 30, 2020. It remains irrefutable that the University continued to offer such services to students. It is also irrefutable that it was the students who decided not to partake in the University's services. Plaintiff's claim must be dismissed.

On March 13, 2020, students were told that if they moved out in the next 17 days - before March 30, 2020 - they would get a refund. (Complaint, ¶ 22.) They were not told that they had to move out. The University permitted the purported class of students to stay in the residence halls after March 30, 2020. Consequently, the University continued to provide housing and dining services. The fact that students moved out sometime between March 30, 2020, and the end of the term was the decision solely of the student. By staying after March 30, 2020, the purported class of students rejected the terms of the University's refund offer. After March 30, 2020, a refund was no longer available, but none the less, the University continued to provide the housing and dining services to students. Consequently, the University neither breached the contract nor was it unjustly enriched.

Importantly, the Complaint did not allege that Caitlyn Waitt, the purported class representative, lived on campus or paid housing and dining fees for Spring 2020. (Complaint, ¶ 17.) If she did not pay housing or dining fees for Spring 2020 then she cannot represent that class.

3. Conclusion

The University acted swiftly by temporarily closing campus facilities to protect students, faculty and the public from the very high risk of becoming infected with the Covid-19 virus. Furthermore, it acted in furtherance with all of the State of Ohio Governor's Executive Orders and Public Health Directives. At the very same time, the University provided its students with educational services through the end of the semester so they could complete their credit hours and continue to matriculate with their degree programs toward graduation without delay. Plaintiff's unfounded and unsupported allegations that the remote learning was subpar or inadequate is a classic claim of educational malpractice. It is both law and fact that Ohio does not recognize a claim educational malpractice. Pure and simple: Plaintiff feebly attempts to disguise a judicially unrecognizable claim as one of breach of contract, unjust enrichment and conversion. Fatal to Plaintiff's feeble attempt to persuade this Court otherwise, is the irrefutable fact that students paid for academic services, received academic services, matriculated toward graduation and received value for their tuition dollars. Therefore, Plaintiff's Complaint must be dismissed.

Respectfully submitted,
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