

**IN THE SUPERIOR COURT OF THE STATE OF WASHINGTON  
IN AND FOR KING COUNTY**

ALEXANDER BARRY, individually and on  
behalf of all others similarly situated,

Plaintiff,

v.

UNIVERSITY OF WASHINGTON, WILLIAM  
S. AYER, JOEL BENOLIEL, JOANNE  
HARRELL, JEREMY JAECH, LIBBY  
MACPHEE, CONSTANCE RICE, ROGELIO  
RIOJAS, BLANE TAMAKI, DAVID ZEEK and,  
ANA MARI CAUCE,

Defendants.

No. 20-2-13924-6-SEA

**NOTICE OF PENDENCY OF CLASS ACTION**

**TO: ALL STUDENTS WHO WERE ENROLLED IN AND PAID FOR THE UNIVERSITY OF  
WASHINGTON'S IN-PERSON BASED EDUCATIONAL PROGRAMS, SERVICES, AND  
COURSES FOR THE WINTER QUARTER 2020 OR SPRING QUARTER 2020 ACADEMIC  
TERM(S).**

***The Superior Court of the State of Washington in and for King County has authorized  
this notice. This is not a solicitation from a lawyer.***

**Please read this notice carefully and in its entirety. You may be a member of the class  
described in this Notice. Your rights may be affected by a pending class action  
lawsuit. This Notice advises you of your options regarding the class action.**

**Please do not call or write the Court. If you have any questions after reading this  
Notice, you should contact Class Counsel or the Administrator as discussed further  
below.**

This Notice is being sent under Civil Rule 23 of the Washington Superior Court Rules and an Order of the Superior Court of the State of Washington in and for King County (the “Court”) to inform you: (a) of a class action lawsuit that is now pending in the Court under the above caption (the “Action”) against the University of Washington (“Defendant”); and (b) that the Action has been certified by the Court to move forward as a class action on behalf of the Class, as defined in paragraph 1 below.

1. By the Order Granting Plaintiff’s Motion for Class Certification dated June 28, 2023, the Court certified the following Class:

All students who were enrolled in and paid for the University of Washington’s in-person based educational programs, services, and courses for the Winter Quarter 2020 or Spring Quarter 2020 academic term(s).

Excluded from the Class is UW, any entity in which UW has a controlling interest, and UW’s legal representatives, predecessors, successors, assigns, and non-student employees. Further excluded from the Class is this Court and its employees.

2. This Notice is directed to you because you may be a member of the Class. If you are a member of the Class, your rights may be affected by this Action. If you do not meet the Class definition, this Notice does not apply to you. If you are uncertain whether you are a member of the Class, contact Class Counsel in paragraph 19 below, or your own attorney.

3. This Notice is not an admission by Defendant or an expression of any opinion as to the merits, or a finding by the Court that the claims asserted by the Class Representative<sup>1</sup> are valid. This Notice is intended only to inform you of the pendency of this Action and of your rights in connection with it, including the right to ask for exclusion from the Class. There is no judgment, settlement, or monetary recovery at this time. Defendant has denied Class Representative’s claims and contends that it is not liable for the harm alleged by Class Representative.

4. The Class definition may be subject to change by the Court under CR 23 of the Washington Superior Court Rules.

#### **DESCRIPTION AND STATUS OF LAWSUIT**

5. This is a breach of contract and unjust enrichment class action against Defendant. The Class Representative alleges that he and Class Members have the right to partial refunds of tuition and fees for the Winter Quarter 2020 or Spring Quarter 2020 because Defendant transitioned to remote instruction in March 2020 amid the COVID-19 pandemic. Defendant denies the allegations asserted in the Action and denies any liability to any members of the Class.

6. On September 16, 2020, the Class Representative filed his Class Action Complaint for Damages.

7. On December 7, 2020, the Class Representative filed his First Amended Class Action Complaint for Damages.

8. Under the Court's scheduling order, on January 29, 2021, Defendant filed its Motion to Dismiss Plaintiff's First Amended Complaint, which Plaintiff opposed.

9. Defendant's motion to dismiss was briefed, and following oral argument, the Court granted in part and denied in part the motion to dismiss on March 17, 2021. The First Amended Class Action Complaint for Damages is the operative complaint.

10. On April 21, 2021, Defendant filed its Answer to Plaintiff's First Amended Complaint, denying the surviving allegations and asserting certain defenses. This Notice does not fully describe all claims and defenses asserted by the parties. The section entitled "Where You Can Find Additional Information" describes the process by which you can obtain more information about the Action and the claims and defenses asserted.

11. On November 23, 2022, Plaintiff moved for class certification, which Defendant opposed. Plaintiff's motion for class certification was briefed, and following oral argument, the Court granted Plaintiff's motion for class certification on June 28, 2023, appointing Plaintiff as Class Representative and Hagens Berman Sobol Shapiro LLP and Lynch Carpenter, LLP as Class Counsel. The Court's Order certifying the Class does not guarantee Class Members will receive money or benefits; that will be decided later.

12. The litigation is ongoing. The parties are currently conducting fact discovery.

13. The Court has not made a ruling on the merits of Class Representative's allegations or on Defendant's denials and defenses. By establishing the Class and issuing this Notice, the Court is not suggesting that the Class Representative will win or lose this case.

### **YOUR RIGHTS AS A CLASS MEMBER**

14. A class action is a type of lawsuit in which one or several individuals or entities prosecute claims on behalf of all members of a group of similarly situated people and entities to obtain monetary or other relief to benefit the entire group. Class actions avoid the necessity of each member of a class having to file his, her, or its own separate lawsuit to obtain relief. Class actions are used to decide legal and factual issues that are common to all members of a class.

15. If you were a student who was enrolled in and paid for the University of Washington's in-person based educational programs, services, and courses for the Winter Quarter 2020 or Spring Quarter 2020 academic term(s), you are a member of the Class unless you choose to opt out, as described below. If you are a member of the Class, you

have the right to decide whether to remain a member of the Class. If you are a member of the Class and wish to be excluded from the Class, you must ask for exclusion under the procedures in paragraphs 17-18 below. To remain a member of the Class, you need not do anything other than to keep your documentation reflecting your enrollment and payments to Defendant as discussed below in paragraph 16. Factors to consider in making your decision are as follows:

- a. **If you choose to remain a member of the Class**, you will be bound by all past, present and future orders and judgments, whether favorable or unfavorable. If any money is awarded to the Class, either through a settlement with Defendant or a judgment of the Court after a trial and any appeal, you may be eligible to receive a share of that award. However, if you remain a member of the Class, you may not pursue a lawsuit on your own behalf regarding the issues in this Action. If you remain a member of the Class, you will not be personally responsible for Class Counsel's attorneys' fees or expenses. Class Counsel have agreed to represent the Class on a contingent fee basis, so they will be awarded fees and expenses to be approved by the Court only if they obtain a recovery from Defendant. Any attorneys' fees for Class Counsel will be awarded by the Court from the settlement or judgment, if any, obtained on behalf of the Class. As a member of the Class you will be represented by Class Counsel. Alternatively, you may remain a member of the Class and elect to be represented by counsel of your own choosing. If you retain separate counsel, you will be responsible for that attorney's fees and expenses and that attorney must enter an appearance on your behalf by filing a Notice of Appearance with the Court and mailing it to Class Counsel at the addresses in paragraph 19 below by November 27, 2023.

If you remain a member of the Class, UW will be authorized under the Federal Family Educational Rights and Privacy Act ("FERPA") to disclose to Class Counsel your UW educational records, which may include amounts you paid to UW for tuition or fees, any financial aid you received from any source, your enrollment and transcript information, and other written communications of yours that you may have sent to UW or may have been received by UW.

- b. **If you choose to be excluded from the Class**, you will not be bound by any orders or judgments, nor will you be eligible to share in any recovery that might be obtained in this Action. You will retain any right you have to individually pursue any legal recourse you may have against Defendant regarding the claims asserted in the Action. Please note, if you exclude yourself from the Class, you may be time-barred by a statute of repose from asserting the claims covered by the Action. Please refer to paragraphs 17-20 below if you would like to ask for exclusion from the Class.

16. Members of the Class will be eligible to participate in any recovery that might be obtained in the Action. While this Notice is not intended to suggest any likelihood that Class Representative or members of the Class will obtain any recovery, should there be a recovery, members of the Class may have to support their requests to participate in the distribution of the recovery by showing their membership in the Class and documenting their enrollment, funding sources, and payments to Defendant. Please keep all records of your transactions. DO NOT mail them to Class Counsel or the Administrator.

### HOW TO BE EXCLUDED FROM THE CLASS

17. To exclude yourself from the Class, you must send a letter by first-class mail or email stating that you “request exclusion from the Class in *Barry v. University of Washington*, Case No. 20-2-13924-6-SEA.” Your request must state your full name, address, and telephone number, and be signed. If you are signing on behalf of a Class Member (such as an estate, corporation or partnership), please indicate your full name and the basis of your authority to act on behalf of the Class Member. You must mail or email your exclusion request, such that it is received by **November 27, 2023** to:

**Barry v. University of Washington**  
**PO Box 3727**  
**Portland, OR 97208-3727**

[info@UniversityofWashingtonCovidLitigation.com](mailto:info@UniversityofWashingtonCovidLitigation.com)

18. You cannot exclude yourself from the Class by telephone or facsimile. Requests for exclusion that do not follow the above requirements will be invalid, unless otherwise accepted by the Court, subject to any objections of the parties to be resolved by the Court.

### CLASS COUNSEL

19. The Court has appointed the law firms of Hagens Berman Sobol Shapiro LLP and Lynch Carpenter, LLP as Class Counsel. If you have questions about the matters raised in this Notice, you may contact class counsel:

HAGENS BERMAN SOBOL SHAPIRO LLP Steve W. Berman Daniel J. Kurowski Whitney K. Siehl 1301 Second Avenue Suite 2000 Seattle, WA 98101 <a href="mailto:uwtuition@hbsslw.com">uwtuition@hbsslw.com</a>	LYNCH CARPENTER, LLP Gary Lynch Eddie Kim Nicholas Colella 1133 Penn Avenue, Floor 5 Pittsburgh, PA 15222 (412) 322-9243 Phone (412) 231-0246 Fax
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**PLEASE KEEP YOUR ADDRESS CURRENT**

20. To help the Court and the parties in maintaining correct lists of Class Members, please mail or e-mail notice of any changes in your address to:

**Barry v. University of Washington**  
**PO Box 3727**  
**Portland, OR 97208-3727**

[info@UniversityofWashingtonCovidLitigation.com](mailto:info@UniversityofWashingtonCovidLitigation.com)

21. If this Notice was forwarded to you by the postal service, or if it was otherwise sent to you at an address that is not current, you should immediately contact the Administrator, Epiq, at the address above or toll free at (888) 557-8623 and provide them with your correct address. If the Administrator does not have your correct address, you may not receive notice of important developments.

#### **WHERE YOU CAN FIND ADDITIONAL INFORMATION**

22. This Notice gives only a summary of the lawsuit and the claims asserted by the Class Representative. For more detailed information regarding the Action, you may contact Class Counsel or visit [www.UniversityofWashingtonCovidLitigation.com](http://www.UniversityofWashingtonCovidLitigation.com).

23. Complete copies of the pleadings, orders, and other documents filed in this Action are available at the office of the Clerk of Court at the Superior Court of the State of Washington in and for King County, 516 Third Avenue, Room E-609, Seattle, WA 98104 under Case No. 20-2-13924-6-SEA.

**PLEASE DO NOT CALL OR WRITE THE COURT OR CLERK OF COURT REGARDING  
THIS NOTICE.**

Dated: September 28, 2023 BY ORDER OF THE COURT  
SUPERIOR COURT OF THE STATE OF WASHINGTON  
IN AND FOR KING COUNTY

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<sup>1</sup> The Court appointed Plaintiff Alexander Barry as Class Representative.