

STATE OF MINNESOTA
COUNTY OF HENNEPIN

DISTRICT COURT
FOURTH JUDICIAL DISTRICT
CASE TYPE: CONTRACT

Steven Staubus, individually and on
behalf of all others similarly situated,

Plaintiffs,

v.

Regents of the University of Minnesota,

Defendant.

Patrick Hyatte on behalf of himself and
other individuals similarly situated,

Plaintiff,

v.

The University of Minnesota and the
Board of Regents of the University of
Minnesota,

Defendants.

Court File No. 27-CV-20-8546
Judge Laurie J. Miller

**ORDER
APPROVING NOTICE OF
CLASS ACTION LAWSUIT**

The above-captioned matter comes before the undersigned regarding approval of Notice of Class Action Lawsuit submitted by Plaintiffs Steven Staubus and Patrick Hyatte, individually and on behalf of all others similarly situated (collectively, "Plaintiffs"), and Defendants University of Minnesota and the Regents of the University of Minnesota (collectively, "Defendants"). The Court orders as follows:

ORDER

1. The Court APPROVES, as to form and content, the Parties' proposed Notice of Class Action Lawsuit (the "Notice") (attached hereto as Exhibit A).

2. Class Counsel will promptly disseminate the approved Notice to all Class members identified, in the records provided by Defendants, as being charged Mandatory Fees by the University of Minnesota for the Spring 2020 semester (the “Records”).

3. The Court FINDS that the distribution of the Notice to the Class members identified in the Records meets the requirements of Rule 23 of the Minnesota Rules of Civil Procedure and due process, is the best notice practicable under the circumstances, and shall constitute due and sufficient notice to all persons entitled thereto.

BY THE COURT:

Dated: January 25, 2023

Laurie J. Miller
Judge of District Court

EXHIBIT A

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NOTICE OF CLASS ACTION LAWSUIT

The purpose of this Notice of Class Action (referred to herein as “Notice”) is to inform you of a class action lawsuit seeking recovery of certain fees charged to University of Minnesota students during the Spring 2020 semester for services that were allegedly not provided as a result of COVID-19 campus closures (the “Case”). This Case was brought under Minnesota law against Defendants, the University of Minnesota and the Board of Regents of the University of Minnesota (referred to herein as “the University” or “Defendant”). If you are a Class Member (defined below), this Case will affect your rights under Minnesota law. Please read below for more information.

1. What is this Notice about and why is it being sent to me?

This Notice is being sent to you because you may be a Class Member in a lawsuit pending against the Defendant. Plaintiffs Steven Staubus and Patrick Hyatte (referred to herein as “Plaintiffs”), both students enrolled during the University’s Spring 2020 semester, brought this lawsuit because they believe that they and other students were not properly refunded by the University for Mandatory Fees (defined below) that were charged by the University in exchange for

the receipt of in-person services, facilities, resources, and activities from the University that the University allegedly did not provide when Plaintiffs claim they were denied access to campus during part of the Spring 2020 semester, after the University transitioned to remote learning. As discussed below, the Court has not yet ruled on the merits of Plaintiffs' claims. This Notice is being provided to advise you about the Case and how it may affect you. This Notice includes an explanation about (i) what to do if you want to exclude yourself from the Case, and (ii) what happens if you do not exclude yourself from the Case and instead remain a Class Member.

2. What are the kinds of claims asserted in the Case?

In a case brought as a "class action," one or more people called "class representatives" sue by filing claims against one or more defendants on behalf of themselves and others who have similar claims against the defendant(s); these other people are called "putative class members." Together, the class representatives and putative class members form a "putative class." But before a case is officially certified as a class action, a court must issue an order stating, among other things, that the court has determined that (i) it is appropriate for the claims brought by the class representatives on behalf of themselves and the putative class members to proceed together, (ii) the class representatives are adequate representatives, and (iii) the attorneys proposed to represent the interests of all the class members, called "class counsel," are qualified to represent the interests of the class (referred to herein as "Class Counsel").

In this Case, on November 9, 2022, the above-captioned court decided that those requirements were met and that the Case should proceed as a class action.

In this Case, Plaintiffs, the class representatives, have asserted class action claims against Defendant under Minnesota law for (i) breach of contract and (ii) unjust enrichment. Plaintiffs assert that the University charged them the full amount of Mandatory Fees (defined below) in exchange for access to in-person services, facilities, resources, and activities during the Spring 2020 semester ("In-Person Services"), but the University failed to provide the In-Person Services it promised when it closed campus and told students not to return to campus following the onset of the COVID-19 pandemic and the University's transition to remote learning. Plaintiffs also assert that despite failing to provide the In-Person Services promised in exchange for those Mandatory Fee payments, the University failed to provide a full, pro-rata refund (based on the number of days that the promised services were not provided).

The Defendant denies Plaintiffs' allegations. The University maintains that it complied with the law and honored its commitments to its students, including through continuing to provide services in person and remotely at the onset of the COVID-19 pandemic.

3. How will this Case affect me?

The Court has given Plaintiffs permission to represent the following group—referred to herein as "the Class," with the person(s) in the Class referred to herein as "Class Member(s)":

All individuals who were charged Mandatory Fees* by the University of Minnesota for the 2020 spring semester.

***The Mandatory Fees consist of the Student Services Fee (SSF),**

Minnesota Student Association Fee (MSAF), Campus and/or Collegiate Fee, and the Stadium Fee and Capital Enhancement Fee for the Twin Cities campus and the Athletics/Athletic Facilities Fee for the Duluth campus.

If Plaintiffs win the Case and a judgment is entered in their favor, participants who are in the Class (*i.e.*, Class Members) will be legally bound by that outcome and may share in any money or benefits that are awarded. If Plaintiffs do not win the Case and a judgment is entered in favor of Defendant, participants who are in the Class (*i.e.*, Class Members) will be legally bound by that outcome and will be prevented in the future from bringing their own individual claims against the University based on the events described in the Case.

Thus, if you remain a Class Member in the Case—that is, you do not “opt out” (see discussion below), then you will be bound by any judgment in the Case whether favorable or unfavorable to Plaintiffs.

4. What should I do if I want to join this Case?

If you were charged Mandatory Fees by the University for the Spring 2020 semester, you are a member of the Class. You do not have to do anything to join this Case if you were charged the Mandatory Fees; all such persons are automatically included in this Case. You received this Notice because the University has records indicating that you were charged Mandatory Fees by the University for the Spring 2020 semester. If you want to remain in the Case, you do not need to do anything. By doing nothing, you will continue to be a Class Member and will remain part of the Class, and you may receive additional information regarding the Case as it proceeds.

You are eligible to be a Class Member and remain part of the Case even if you are still enrolled at the University, and your participation will not in any way affect your status as a student, any benefits you receive by virtue of attending the University, or your academic progress.

4. What should I do if I want to be excluded from this Case and/or from the disclosure of protected information?

If you want to be *excluded* from this Case, that is, if you want to opt out from the Class, you must return the Election to be Excluded Form (the enclosed form) to [Claims Admin]. The form must be mailed no later than (45 days after mailing date of Notice) at the following address:

**Analytics, LLC
18675 Lake Drive East
Chanhassen, Minnesota 55317**

Persons who elect to exclude themselves from the Class, *i.e.*, opt out, will not be bound by any judgment in the Case and also will not be entitled to participate in any recovery, if any recovery occurs. If you opt out of the Case, you may be able to pursue claims or other legal remedies apart from those raised in the Case, and you may be able to intervene in the Case. Neither the Plaintiffs nor the Defendant nor any of their respective attorneys make any

representations to you regarding what, if any, claims or other legal remedies may be available to you should you choose to exclude yourself, *i.e.*, opt out.

Additionally, this Notice is provided to you to advise you that some of your financial information covered by the Family Educational Rights and Privacy Act (“FERPA”) will be disclosed to allow Class Counsel to formulate the potential amounts of damages that they assert are owed to you and other Class Members.

In accordance with FERPA, the following information will be released as early as [45 days after mailing the Notice], as ordered by the Court in this Case, *unless* you provide written notice objecting to its disclosure to **Analytics, LLC, 18675 Lake East Drive, Chanhassen, Minnesota 55317** by [DATE]:

- Name, contact information, and email address;
- Dates of attendance;
- Hours enrolled during Spring 2020 semester;
- Full time or part time status;
- Location of enrollment (*i.e.*, Twin Cities campus, Duluth campus, Rochester campus, Morris campus, or Crookston campus);
- Fees assessed; and
- Fees charged.

In deciding whether to object to such disclosure of your information, you should know that Plaintiffs and their attorneys, Class Counsel, have agreed to use your information *only for purposes of this Case*, and your information will otherwise remain confidential and protected against disclosure to anyone outside of the Case.

If Class Counsel does not receive this information for you (or other Class Members), Class Counsel may not be able to calculate or prove damages that they assert you (and other Class Members) are owed. If you want to discuss concerns you may have about the disclosure of your information, contact Class Counsel at (312) 233-1550 and reference *Staubus v. Regents of the University of Minnesota*.

6. Has the Court ruled on the merits of Plaintiffs’ claims or Defendant’s defenses?

No. The Court has not yet ruled on the merits of any of Plaintiffs’ claims or Defendant’s defenses.

The Court has (i) allowed Plaintiffs’ claims seeking full refunds of Mandatory Fees to proceed past Defendant’s motion to dismiss and motion for summary judgment, and (ii) as noted above, determined that those claims can be pursued as class action claims.

The fact that this Notice is being mailed to you does not mean that the Court has decided whether any of the Class Members are owed any refund of the Mandatory Fees sought by Plaintiffs

or whether the Defendant violated any laws. Plaintiffs still must prove their claims at a trial. The Court has not yet set a trial date.

This notice is not intended to be, and should not be construed as, an expression of any opinion with respect to the merits of the allegations in this case. This notice is merely to advise you of the pendency of this action and of your rights as a class member, including your right to elect to be excluded from the class.

7. What should I do if I want to receive further notices about the Case?

Unless you elect to be excluded from the class (*i.e.*, opt out), you will continue to receive information by **U.S. Mail and/or by e-mail** that is issued to the Class. If you move after receiving this Notice and/or change your e-mail address, you should supply your name and correct address and/or e-mail address to one of the attorneys listed below.

8. Who are the attorneys for Plaintiffs (Class Counsel), and how will they be paid?

The attorneys for Plaintiffs, Class Counsel, are:

<p>Ryan F. Stephan James B. Zouras Catherine T. Mitchell Paige L. Smith Stephan Zouras, LLP 100 N. Riverside Plaza, Suite 2150 Chicago, Illinois 60606 Telephone: (312) 233-1550 Facsimile: (312) 233-1560 lawyers@stephanzouras.com</p> <p>Melissa S. Weiner Pearson, Simon & Warshaw, LLP 328 Barry Avenue S. Suite 200 Wayzata, MN 55391 Telephone: (612) 389-0600 Fax: (612) 389-0610 mweiner@pswlaw.com</p>	<p>Matthew H. Morgan Rebekah L. Bailey Nichols Kaster, PLLP 4700 IDS Center 80 South Eighth Street Minneapolis, MN 55402 Telephone: (612) 256-3200 Fax: (612) 389-0610 morgan@nka.com bailey@nka.com</p> <p>Michael A. Tompkins Leeds Brown Law, P.C. One Old Country Road, Suite 347 Carle Place, NY 11514 Telephone: (516) 873-9550</p> <p>Jason Sultzer Sultzer Law Group P.C. 85 Civic Center Plaza, Suite 104 Poughkeepsie, New York 12601 Telephone: (845) 483-7100 sultzerj@thesultzerlawgroup.com</p>
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The attorneys for Plaintiffs, Class Counsel, may be entitled to receive a payment of attorneys' fees and costs in this lawsuit if there is a recovery in Plaintiffs' favor and for the Class. If there is no recovery in Plaintiffs' favor and for the Class, you will not be

responsible for any attorneys' fees. Any payment of attorneys' fees by the Defendant to Plaintiffs' counsel may be subject to prior Court approval. By joining this Case (*i.e.*, not opting out), you designate Plaintiffs as your agents to make decisions on your behalf concerning the Case, the method and manner of conducting the litigation of the Case, the entering of an agreement with Plaintiffs' counsel (Class Counsel) concerning attorneys' fees and costs, and you are agreeing to be represented by the above-named attorneys (Class Counsel) for all other matters pertaining to this Case. These decisions and agreements, including those made and entered into by the representative Plaintiffs, will be binding on you if you do not opt out, *i.e.*, file an Election to be Excluded Form.

9. How can I obtain further information about this Case?

The pleadings and other records of this Case may be examined and copied any time during the regular office hours in the office of the Clerk at the following address:

Hennepin County Govt. Center
300 South 6th Street
Minneapolis, Minnesota 55487

Additionally, if you have questions about this Case or need help understanding this Notice, you may contact the lawyers representing the Plaintiffs who brought this lawsuit (Class Counsel). You may reach those lawyers by calling 312-233-1550 or by sending an email to Stephan Zouras, LLP at lawyers@stephanzouras.com and referencing *Staubus v. Regents of the University of Minnesota*.

***THIS NOTICE AND ITS CONTENTS HAVE BEEN AUTHORIZED BY THE DISTRICT COURT OF THE STATE OF MINNESOTA. THE COURT HAS TAKEN NO POSITION IN THIS CASE REGARDING THE MERITS OF PLAINTIFFS' CLAIMS OR THE DEFENDANT'S DEFENSES.**

PLEASE DO NOT CALL OR WRITE THE JUDGE ASSIGNED TO THIS MATTER. THE JUDGE CANNOT ANSWER QUESTIONS CONCERNING THIS CASE OR THIS NOTICE.

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ELECTION TO BE EXCLUDED FORM (OPT OUT FORM)

By filling out and signing this document, I state the following:

1. I am or believe that I am a member of the Class referred to in the Notice of Class Action Lawsuit in the above-captioned case.

2. I request to opt out of, that is, to be excluded from, the Class certified by this Court.

3. I understand that, by this request, I will not be bound by any judgment rendered in this Case if it is favorable to the Class, but I also will not be entitled to share in any money or benefits of any recovery or judgment in this action if it is favorable to the Class.

4. I also understand that, by this request, I will not be bound by any judgment rendered in

this Case if it is adverse to the Class.

5. I make this request on my own, without having consulted with or been promised any benefit by any party or attorney in this Case.

My name is: _____ (*print your name here*)

My address is: _____ (*street address*)

_____ (*city, state, zip code*)

This is my telephone number: _____ (*telephone number*)

This is my signature: _____

I signed this Request on: _____ (*date*)