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## Univ. Of South Florida Students Seek Virus Closure Refunds

By **Melissa Angell**

Law360 (August 12, 2021, 8:25 PM EDT) -- University of South Florida students are seeking prorated refunds for tuition and other fees they paid when the school pivoted to online learning as a result of the COVID-19 pandemic, according to a proposed class action removed to Florida federal court Thursday.

Felipe Rivadeneira, who was a student at the school during the Spring 2020 semester, said that the university and its board breached its contract with members of the proposed class when it halted in-person instruction and shut down on-site facilities in response to the pandemic.

"Plaintiff and members of the proposed class did not enter into an agreement with defendants for online education, but rather agreed to pay for and receive in-person education and access to campus facilities from the University," the first amended complaint said.

The proposed class explained that its members entered into a contract with the university when they doled out payments for tuition and fees to the university in exchange for in-person educational services, access to campus facilities and other services.

But the students claim that the university breached the contracts it held with them when it moved to fully remote instruction in March 2020 and denied them access to services that they paid for. To back up their argument, the students pointed to the university's marketing materials advertising the school's on-campus experience and other amenities students typically enjoy.

"Plaintiff and the Class have been deprived of access to these facilities and services as a result of defendants' response to COVID-19," the lawsuit said.

The students argued that they never elected to attend a solely online institution for higher learning and that they should be refunded their tuition and other fees for the portion of the Spring 2020 semester, along with other semesters, that were impacted by the virus.

Rivadeneira said that the university charged him around \$8,440 in fees for tuition for the spring 2020 semester, plus around \$2,100 in additional fees. Some fees students paid include a facilities fee, a tech fee, a green energy fee and a transportation fee, according to the lawsuit.

The proposed class underlined that many students took out "life-altering loans" in order to pay tuition and fees to attend the school, arguing that it's only fair that the contracts the school has with its students should be enforced.

"Students like plaintiff have no real option but to pay the defendants' required tuition and other fees despite campus closure," the complaint said. "Students must proceed with their semester and programs or they risk forfeiting the educational benefits and credit hours for which they already paid."

Beyond breach of contract, the lawsuit also brings claims for unjust enrichment, inverse condemnation and a violation of the Fifth Amendment's taking clause, which does not allow private property to be taken for public use without just compensation.

Rivadeneira wants to represent a class consisting of those who paid tuition and other fees to attend

in-person classes at the university, but saw their classes moved online and were denied access to on-site facilities due to the pandemic.

The proposed class seeks restitution along with disgorgement of any "ill-gotten gains" that the school and the board incurred from their purported misconduct.

A spokesperson for the University of South Florida told Law360 that the school does not comment on pending litigation.

Students have filed similar suits from **coast to coast**, claiming colleges and universities should refund fees for access to facilities and services that were no longer available once they closed their campuses as the coronavirus started spreading in March and prorated tuition for a second-rate class experience when teaching moved online.

In Florida, **the state's 12 public universities** and the private University of Miami were sued last spring after they shifted to remote learning because of the pandemic.

Counsel for the proposed class did not immediately respond to requests for comment on Thursday.

The proposed class is represented by Joshua Harris Eggnatz of Eggnatz Pascucci PA.

The university and its board are represented by Richard C. McCrea Jr. of Greenberg Traurig PA.

The case is Rivadeneira v. University of South Florida et al., case number 8:21-cv-01925, in the U.S. District Court for the Middle District of Florida.

--Additional reporting by Nathan Hale. Editing by Ellen Johnson.