

UNITED STATES DISTRICT COURT
DISTRICT OF MARYLAND

ELENA BOTTS, on behalf of herself and all
others similarly situated,

Plaintiff,

v.

JOHNS HOPKINS UNIVERSITY,

Defendant.

Case No. 1:20-cv-01335-JRR

**ORDER PRELIMINARILY APPROVING
SECOND SETTLEMENT ADDENDUM AND DIRECTING NOTICE TO
SECOND GROUP OF ADDITIONAL CLASS MEMBERS**

Upon consideration of Named Plaintiff¹ Elena Botts's Unopposed Motion for Preliminary Approval of Second Settlement Addendum and Order Directing Notice to the Second Group of Additional Class Members (the "Motion"), IT IS HEREBY ORDERED:

1. The terms of this Court's December 20, 2022 Order Preliminarily Approving Settlement and Directing Notice to Settlement Class, ECF 89, remain in effect and are fully incorporated herein by reference.
2. The terms of this Court's April 20, 2023 Order finally approving the settlement and granting Class Counsel's Motion for an Award of Attorneys' Fees and Litigation Costs and for a Service Award, ECF 96, remain in effect and are fully incorporated herein by reference.
3. The terms of this Court's August 8, 2023 Order Preliminarily Approving Settlement Addendum and Directing Notice to Additional Class Members, ECF 100, remain in effect and are fully incorporated herein by reference.

¹ Capitalized terms are defined in Section 2 of the Parties' Second Addendum to Class Settlement Agreement and Release, ECF 114-2.

4. The terms of this Court's December 13, 2023 Orders finally approving the settlement and granting Class Counsel's Motion for an Award of Attorneys' Fees and Litigation Costs and for a Service Award, ECFs 109, 110, remain in effect and are fully incorporated herein by reference.

5. The Settlement Class, defined as "all people who paid Defendant Johns Hopkins University tuition and/or fees for the Spring Semester 2020, which tuition and fees have not been refunded," appropriately encompasses the Second Group of Additional Students who may assert the claims alleged in Counts I and II of Named Plaintiff Elena Botts's Amended Complaint against Defendant Johns Hopkins University, *see* ECF 35.

6. The Second Addendum to the Class Action Settlement Agreement and Release entered into between the Parties as of March 29, 2024 (the "Second Addendum"), ECF 114-2, appears, upon preliminary review, to be fair, reasonable, and adequate to the Second Group of Additional Students, *i.e.*, those members of the Settlement Class not previously provided notice. The terms of the Second Addendum are fully incorporated herein by reference.

7. Accordingly, for settlement purposes only, the proposed Second Addendum is preliminarily approved, pending a Final Approval Hearing, as provided for herein.

8. The Court finds that the Second Addendum concerns 2,607 members of the Settlement Class, the Second Group of Additional Students.

9. The Court affirms (1) its earlier findings that Named Plaintiff Elena Botts has and will continue to adequately represent the Settlement Class and (2) her appointment as class representative.

10. The Court affirms its earlier findings that (1) the attorneys for Named Plaintiff, James A. Francis, John Soumilas, Kevin C. Mallon, and Jordan M. Sartell of Francis Mailman

Soumilas, P.C. and Courtney Weiner of the Law Office of Courtney Weiner PLLC, have and will continue to adequately represent the Settlement Class and (2) their appointment as Class Counsel.

11. The Court affirms its earlier appointment of JND Legal Administration as the Settlement Administrator.

12. The Court will hold a Final Approval Hearing pursuant to FED. R. CIV. P. 23(e) at **2:00 p.m. on July 31, 2024, in Courtroom 3A** of the United States District Courthouse located at 101 West Lombard Street, Baltimore, Maryland for the following purposes:

A. To determine whether the proposed Second Addendum is fair, reasonable, and adequate and should be granted final approval by the Court;

B. To determine whether a final judgment should be entered dismissing the claims of the Second Group of Additional Students with prejudice, as required by the Second Addendum;

C. To consider the application of Class Counsel for an award of attorney's fees and costs; and

D. To consider the application of Class Counsel for a Service Award to the class representative.

13. As set forth in Section 4.1.1 of the Second Addendum, Defendant shall provide a list of Settlement Class members to the Settlement Administrator, who shall send the agreed upon Notice to the Settlement Class members in accordance with the terms of the Second Addendum.

14. The Court approves the Parties' Notice, which is attached to the Second Addendum as Exhibit C. To the extent the Parties or Settlement Administrator determine that ministerial changes to the Notice are necessary before disseminating it to the Second Group of Additional Students, they may make such changes without further application to the Court.

15. The Court approves the Parties' Class Notice Plan, as set forth in Section 4.1.3 of the Second Addendum. The Court finds this manner of giving notice fully satisfies the requirements of FED. R. CIV. P. 23 and due process.

16. If a member of the Second Group of Additional Students chooses to opt-out of the Settlement Class, such Class member is required to submit a request for exclusion to the Settlement Administrator, post-marked on or before the date specified in the Notice, which shall be no later than thirty (30) days before the date of the Final Approval Hearing. The request for exclusion must include the items identified in section 4.3.4.1 of the Second Addendum. A member of the Second Group of Additional Students who submits a valid request for exclusion using the procedure identified above shall be excluded from the class for all purposes. No later than fourteen (14) days prior to the Final Approval Hearing, the Settlement Administrator shall prepare a declaration listing all the valid opt-outs received and shall provide the declaration and list to Class Counsel and Defendant's counsel, with Class Counsel then reporting the names appearing on this list to the Court before the Final Approval Hearing.

17. Members of the Second Group of Additional Students who do not file a timely and valid request for exclusion shall be bound by all subsequent proceedings, orders, and judgments in this action.

18. Any member of the Second Group of Additional Students who wishes to be heard orally at the Final Approval Hearing, and/or who wishes for any objection to be considered, must file a written notice of objection to be filed with the Court no later than thirty (30) days prior to the Final Approval Hearing. The notice of objection shall be sent by First Class United States Mail to the Settlement Administrator, the Clerk of the Court, Class Counsel, and counsel for Defendant. The objection must include the following:

- A. the member of the Second Group of Additional Students's full name, address and current telephone number;
- B. if the individual is represented by counsel, the name and telephone number of counsel and, if counsel intends to submit a request for fees, all factual and legal support for that request;
- C. all objections and the basis for any such objections stated with specificity, including a statement as to whether the objection applies only to the objector, to a specific subset of the Class, or to the entire Class;
- D. the identity of any witnesses the objector may call to testify;
- E. a listing of all exhibits the objector intends to introduce into evidence at the Final Approval Hearing, if any, as well as true and correct copies of such exhibits; and
- F. a statement of whether the objector intends to appear at the Final Approval Hearing, either with or without counsel.

Any member of the Second Group of Additional Students who fails to timely file and serve a written objection pursuant to the terms of this paragraph shall not be permitted to object to the approval of the settlement or the Second Addendum and shall be foreclosed from seeking any review of the settlement or the terms of the Second Addendum by appeal or other means.

19. All briefs, memoranda, petitions, and affidavits to be filed in support of an individual service award to the Named Plaintiff and/or in support in support of Class Counsel's application for attorneys' fees and costs, shall be filed not later than forty-five (45) days before the Final Approval Hearing. All other briefs, memoranda, petitions, and affidavits that Class Counsel intends to file in support of final approval shall be filed not later than twenty-one (21) days before the Final Approval Hearing.

20. Neither this Preliminary Approval Order, nor the Second Addendum, shall be construed or used as an admission or concession by or against the Defendant or any of the Released Parties of any fault, omission, liability, or wrongdoing, or the validity of any of the Class Released Claims. This Preliminary Approval Order is not a finding of the validity or invalidity of any claims in this lawsuit or a determination of any wrongdoing by the Defendant or any of the Released Parties. The preliminary approval of the Second Addendum does not constitute any opinion, position, or determination of this Court, one way or the other, as to the merits of the claims and defenses of Plaintiff, the Settlement Class members (including the Second Group of Additional Students), or the Defendant.

21. If the Second Addendum is not finally approved, is not upheld on appeal, or is otherwise terminated, the Second Addendum and all negotiations, proceedings, and documents prepared, and statements made in connection therewith, shall be without prejudice to any party and shall not be deemed or construed to be an admission or confession by any party of any fact, matter, or proposition of law; and all parties shall stand in the same procedural position as if the Second Addendum had not been negotiated, made, or filed with the Court.

22. The Court retains exclusive jurisdiction over this action to consider all further matters arising out of or connected with the Second Addendum.

Dated: April 9, 2024

BY THE COURT:

/s/

HONORABLE JULIE R. RUBIN
UNITED STATES DISTRICT JUDGE