

ATTORNEY OR PARTY WITHOUT ATTORNEY (Name, State Bar number, and address): Roberto Ripamonti (SBN 259123) Lohr Ripamonti & Segarich LLP 140 Geary Street, 4F, San Francisco, CA 94108 TELEPHONE NO.: 415-729-4718 FAX NO.: 415-789-4163 ATTORNEY FOR (Name): Andrea Herington	FOR COURT USE ONLY
SUPERIOR COURT OF CALIFORNIA, COUNTY OF Fresno STREET ADDRESS: 1130 O Street MAILING ADDRESS: CITY AND ZIP CODE: Fresno, CA 93721 BRANCH NAME: Unlimited Civil Jurisdiction	
CASE NAME: Andrea Herington v. Board of Trustees of California State University, operating as California State University, Fresno + Dees	
CIVIL CASE COVER SHEET <input checked="" type="checkbox"/> Unlimited (Amount demanded exceeds \$25,000) <input type="checkbox"/> Limited (Amount demanded is \$25,000 or less) <input type="checkbox"/> Counter <input type="checkbox"/> Joinder Complex Case Designation 1-50 Filed with first appearance by defendant (Cal. Rules of Court, rule 3.402)	CASE NUMBER: JUDGE: DEPT:

Items 1-6 below must be completed (see instructions on page 2).

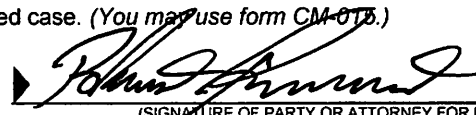
1. Check one box below for the case type that best describes this case:

Auto Tort <input type="checkbox"/> Auto (22) <input type="checkbox"/> Uninsured motorist (46) Other PI/PD/WD (Personal Injury/Property Damage/Wrongful Death) Tort <input type="checkbox"/> Asbestos (04) <input type="checkbox"/> Product liability (24) <input type="checkbox"/> Medical malpractice (45) <input type="checkbox"/> Other PI/PD/WD (23) Non-PI/PD/WD (Other) Tort <input type="checkbox"/> Business tort/unfair business practice (07) <input type="checkbox"/> Civil rights (08) <input type="checkbox"/> Defamation (13) <input type="checkbox"/> Fraud (16) <input type="checkbox"/> Intellectual property (19) <input type="checkbox"/> Professional negligence (25) <input type="checkbox"/> Other non-PI/PD/WD tort (35) Employment <input type="checkbox"/> Wrongful termination (36) <input type="checkbox"/> Other employment (15)	Contract <input checked="" type="checkbox"/> Breach of contract/warranty (06) <input type="checkbox"/> Rule 3.740 collections (09) <input type="checkbox"/> Other collections (09) <input type="checkbox"/> Insurance coverage (18) <input type="checkbox"/> Other contract (37) Real Property <input type="checkbox"/> Eminent domain/Inverse condemnation (14) <input type="checkbox"/> Wrongful eviction (33) <input type="checkbox"/> Other real property (26) Unlawful Detainer <input type="checkbox"/> Commercial (31) <input type="checkbox"/> Residential (32) <input type="checkbox"/> Drugs (38) Judicial Review <input type="checkbox"/> Asset forfeiture (05) <input type="checkbox"/> Petition re: arbitration award (11) <input type="checkbox"/> Writ of mandate (02) <input type="checkbox"/> Other judicial review (39)	Provisionally Complex Civil Litigation (Cal. Rules of Court, rules 3.400-3.403) <input type="checkbox"/> Antitrust/Trade regulation (03) <input type="checkbox"/> Construction defect (10) <input type="checkbox"/> Mass tort (40) <input type="checkbox"/> Securities litigation (28) <input type="checkbox"/> Environmental/Toxic tort (30) <input type="checkbox"/> Insurance coverage claims arising from the above listed provisionally complex case types (41) Enforcement of Judgment <input type="checkbox"/> Enforcement of judgment (20) Miscellaneous Civil Complaint <input type="checkbox"/> RICO (27) <input type="checkbox"/> Other complaint (not specified above) (42) Miscellaneous Civil Petition <input type="checkbox"/> Partnership and corporate governance (21) <input type="checkbox"/> Other petition (not specified above) (43)
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2. This case is is not complex under rule 3.400 of the California Rules of Court. If the case is complex, mark the factors requiring exceptional judicial management:
- | | |
|--------------------------------------------------------------------------------------------------------------------------------|------------------------------------------------------------------------------------------------------------------------------------------------------------|
| a. <input type="checkbox"/> Large number of separately represented parties | d. <input checked="" type="checkbox"/> Large number of witnesses |
| b. <input type="checkbox"/> Extensive motion practice raising difficult or novel issues that will be time-consuming to resolve | e. <input type="checkbox"/> Coordination with related actions pending in one or more courts in other counties, states, or countries, or in a federal court |
| c. <input type="checkbox"/> Substantial amount of documentary evidence | f. <input type="checkbox"/> Substantial postjudgment judicial supervision |
3. Remedies sought (check all that apply): a. monetary b. nonmonetary; declaratory or injunctive relief c. punitive
4. Number of causes of action (specify): **One**
5. This case is is not a class action suit.
6. If there are any known related cases, file and serve a notice of related case. (You may use form CM-015.)

Date: 4/30/2019
Roberto Ripamonti

(TYPE OR PRINT NAME)



(SIGNATURE OF PARTY OR ATTORNEY FOR PARTY)

NOTICE
<ul style="list-style-type: none"> Plaintiff must file this cover sheet with the first paper filed in the action or proceeding (except small claims cases or cases filed under the Probate Code, Family Code, or Welfare and Institutions Code). (Cal. Rules of Court, rule 3.220.) Failure to file may result in sanctions. File this cover sheet in addition to any cover sheet required by local court rule. If this case is complex under rule 3.400 et seq. of the California Rules of Court, you must serve a copy of this cover sheet on all other parties to the action or proceeding. Unless this is a collections case under rule 3.740 or a complex case, this cover sheet will be used for statistical purposes only.

INSTRUCTIONS ON HOW TO COMPLETE THE COVER SHEET

To Plaintiffs and Others Filing First Papers. If you are filing a first paper (for example, a complaint) in a civil case, you **must** complete and file, along with your first paper, the *Civil Case Cover Sheet* contained on page 1. This information will be used to compile statistics about the types and numbers of cases filed. You must complete items 1 through 6 on the sheet. In item 1, you must check **one** box for the case type that best describes the case. If the case fits both a general and a more specific type of case listed in item 1, check the more specific one. If the case has multiple causes of action, check the box that best indicates the **primary** cause of action. To assist you in completing the sheet, examples of the cases that belong under each case type in item 1 are provided below. A cover sheet must be filed only with your initial paper. Failure to file a cover sheet with the first paper filed in a civil case may subject a party, its counsel, or both to sanctions under rules 2.30 and 3.220 of the California Rules of Court.

To Parties in Rule 3.740 Collections Cases. A "collections case" under rule 3.740 is defined as an action for recovery of money owed in a sum stated to be certain that is not more than \$25,000, exclusive of interest and attorney's fees, arising from a transaction in which property, services, or money was acquired on credit. A collections case does not include an action seeking the following: (1) tort damages, (2) punitive damages, (3) recovery of real property, (4) recovery of personal property, or (5) a prejudgment writ of attachment. The identification of a case as a rule 3.740 collections case on this form means that it will be exempt from the general time-for-service requirements and case management rules, unless a defendant files a responsive pleading. A rule 3.740 collections case will be subject to the requirements for service and obtaining a judgment in rule 3.740.

To Parties in Complex Cases. In complex cases only, parties must also use the *Civil Case Cover Sheet* to designate whether the case is complex. If a plaintiff believes the case is complex under rule 3.400 of the California Rules of Court, this must be indicated by completing the appropriate boxes in items 1 and 2. If a plaintiff designates a case as complex, the cover sheet must be served with the complaint on all parties to the action. A defendant may file and serve no later than the time of its first appearance a joinder in the plaintiff's designation, a counter-designation that the case is not complex, or, if the plaintiff has made no designation, a designation that the case is complex.

CASE TYPES AND EXAMPLES

Auto Tort

Auto (22)—Personal Injury/Property Damage/Wrongful Death
Uninsured Motorist (46) (*if the case involves an uninsured motorist claim subject to arbitration, check this item instead of Auto*)

Other PIPD/W (Personal Injury/Property Damage/Wrongful Death) Tort

Asbestos (04)
Asbestos Property Damage
Asbestos Personal Injury/Wrongful Death
Product Liability (*not asbestos or toxic/environmental*) (24)
Medical Malpractice (45)
Medical Malpractice—Physicians & Surgeons
Other Professional Health Care Malpractice
Other PI/PD/W (23)
Premises Liability (e.g., slip and fall)
Intentional Bodily Injury/PD/W (e.g., assault, vandalism)
Intentional Infliction of Emotional Distress
Negligent Infliction of Emotional Distress
Other PI/PD/W

Non-PI/PD/W (Other) Tort

Business Tort/Unfair Business Practice (07)
Civil Rights (e.g., discrimination, false arrest) (*not civil harassment*) (08)
Defamation (e.g., slander, libel) (13)
Fraud (16)
Intellectual Property (19)
Professional Negligence (25)
Legal Malpractice
Other Professional Malpractice (*not medical or legal*)
Other Non-PI/PD/W Tort (35)

Employment

Wrongful Termination (36)
Other Employment (15)

Contract

Breach of Contract/Warranty (06)
Breach of Rental/Lease
Contract (*not unlawful detainer or wrongful eviction*)
Contract/Warranty Breach—Seller Plaintiff (*not fraud or negligence*)
Negligent Breach of Contract/Warranty
Other Breach of Contract/Warranty
Collections (e.g., money owed, open book accounts) (09)
Collection Case—Seller Plaintiff
Other Promissory Note/Collections Case
Insurance Coverage (*not provisionally complex*) (18)
Auto Subrogation
Other Coverage
Other Contract (37)
Contractual Fraud
Other Contract Dispute

Real Property

Eminent Domain/Inverse Condemnation (14)
Wrongful Eviction (33)
Other Real Property (e.g., quiet title) (26)
Writ of Possession of Real Property
Mortgage Foreclosure
Quiet Title
Other Real Property (*not eminent domain, landlord/tenant, or foreclosure*)

Unlawful Detainer

Commercial (31)
Residential (32)
Drugs (38) (*if the case involves illegal drugs, check this item; otherwise, report as Commercial or Residential*)

Judicial Review

Asset Forfeiture (05)
Petition Re: Arbitration Award (11)
Writ of Mandate (02)
Writ—Administrative Mandamus
Writ—Mandamus on Limited Court Case Matter
Writ—Other Limited Court Case Review
Other Judicial Review (39)
Review of Health Officer Order
Notice of Appeal—Labor
Commissioner Appeals

Provisionally Complex Civil Litigation (Cal. Rules of Court Rules 3.400–3.403)

Antitrust/Trade Regulation (03)
Construction Defect (10)
Claims Involving Mass Tort (40)
Securities Litigation (28)
Environmental/Toxic Tort (30)
Insurance Coverage Claims (*arising from provisionally complex case type listed above*) (41)

Enforcement of Judgment

Enforcement of Judgment (20)
Abstract of Judgment (Out of County)
Confession of Judgment (*non-domestic relations*)
Sister State Judgment
Administrative Agency Award (*not unpaid taxes*)
Petition/Certification of Entry of Judgment on Unpaid Taxes
Other Enforcement of Judgment Case

Miscellaneous Civil Complaint

RICO (27)
Other Complaint (*not specified above*) (42)
Declaratory Relief Only
Injunctive Relief Only (*non-harassment*)
Mechanics Lien
Other Commercial Complaint Case (*non-tort/non-complex*)
Other Civil Complaint (*non-tort/non-complex*)

Miscellaneous Civil Petition

Partnership and Corporate Governance (21)
Other Petition (*not specified above*) (43)
Civil Harassment
Workplace Violence
Elder/Dependent Adult Abuse
Election Contest
Petition for Name Change
Petition for Relief From Late Claim
Other Civil Petition

1 LOHR RIPAMONTI & SEGARICH LLP
2 Roberto G. Ripamonti (SBN 259123)
3 Alec Segarich (SBN 260189)
4 140 Geary Street, 4F
5 San Francisco, CA 94108
6 Telephone: (415) 294-0448
7 Facsimile: (415) 354-3275
8 Email: roberto.ripamonti@lrllp.com
9 Email: alec.segarich@lrllp.com

10 *Attorneys for Plaintiff and the putative class*

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SUPERIOR COURT OF CALIFORNIA, COUNTY OF FRESNO
UNLIMITED CIVIL DIVISION

ANDREA HERINGTON, for herself
individually and on behalf of all others
similarly situated

Plaintiff,

vs.

BOARD OF TRUSTEES OF CALIFORNIA
STATE UNIVERSITY, operating as
CALIFORNIA STATE UNIVERSITY,
FRESNO, and DOES 1-50,

Defendants.

CASE NO.:

CLASS ACTION COMPLAINT

BREACH OF CONTRACT

1 **CLASS ACTION COMPLAINT**

2 1. Plaintiff ANDREA HERINGTON (“Ms. Herington”), individually and on
3 behalf of other students and former students similarly situated, brings this class action
4 complaint against Defendants BOARD OF TRUSTEES OF CALIFORNIA STATE
5 UNIVERSITY (operating as California State University, Fresno), and DOES 1-50, for breach
6 of contract. California State University, Fresno (hereafter “Fresno State”) failed to provide to
7 the tuition-paying class members the services and accredited training programs it advertised as
8 its Psychiatric Mental Health Nurse Practitioner (“PMHNP”) program, despite receiving their
9 tuition. Ms. Herington therefore seeks to obtain redress for all persons injured as a result of
10 their failure to provide the promised accredited training.

11 2. In brief, Fresno State operates the PMHNP program out of its School of
12 Nursing. The program is a one-year post-master’s program designed to “prepare primary care
13 nurse practitioners to provide a full range of psychiatric services to patients throughout the life
14 cycle.” Fresno State advertised the program as a “formally constructed program that meets the
15 requirements for national certification by the American Nurse Credentialing Center as an Adult
16 Psychiatric and Mental Health or Family Psychiatric and Mental Health Nurse Practitioner.”
17 Further, Fresno State’s published materials and orientation seminars all touted the fact that the
18 program meets the requirements for national certification by the American Nurse Credentialing
19 Center (ANCC). Based on these representations, Fresno State entered into standardized
20 contracts with dozens of nursing students hoping to receive their certificate of completion from
21 the program and become accredited, nationally certified psychiatric nurse practitioners. Each
22 student paid Defendant tuition in excess of several thousand dollars. The terms of the
23 standardized contract established the price students were required to pay for their classes, and
24 established the nature and quality of the classes and the academic credits they would receive by
25 enrolling.

26 3. In fact, Fresno State’s PMHNP program is not only currently unaccredited, but
27 it has never had accreditation from the Commission on Collegiate Nursing Education (CCNE),
28 and graduates cannot become certified by the ANCC. Despite taking thousands of dollars of

1 tuition from each of its students and promising them an accredited training program which they
2 could use to get national certification, Fresno State instead provided a substandard curriculum
3 which was not accredited, the graduates of which were not even legally able to take required
4 certification exams. Even worse, as the ANCC seemingly failed to confirm the accreditation
5 status of Fresno State as it has administered the certification exams for the past four years,
6 students of the program who successfully passed the boards have had their results nullified
7 after the fact, once the ANCC became aware of Fresno State's lack of accreditation.
8 Shockingly, Fresno State continued to recruit more students into its program even after it knew
9 about its lack of accreditation. It also made oral statements through its professors to current
10 students that the issue would be resolved and that "accreditation was not needed for their
11 program." By failing to provide courses that were properly accredited by the CCNE,
12 Defendant breached its contracts with the students of its PMHNP program.

13 4. Ms. Herrington, in this class action complaint, alleges the following upon
14 personal knowledge as to herself and her own acts and experiences, and as to all other matters,
15 upon information and belief, including investigation conducted by her attorneys.

16 **PARTIES**

17 5. Plaintiff Andrea Herrington is a natural person and a citizen of the State of
18 California. She is a registered nurse and family nurse practitioner, and a former student of the
19 Fresno State PMHNP program.

20 6. Defendant Board of Trustees of the California State University is the State of
21 California acting in its higher education capacity. California State University, Fresno is one of
22 several universities that is governed by the Board of Trustees of the California State
23 University.

24 7. The true names and capacities, whether individual, corporate, associate,
25 representative, alter ego or otherwise, of defendants and/or their alter egos named herein as
26 DOES 1 through 50 inclusive are presently unknown to Ms. Herrington at this time, and are
27 therefore sued by such fictitious names pursuant to California Code of Civil Procedure § 474.
28 Ms. Herrington will amend this Complaint to allege the true names and capacities of DOES 1

1 through 50 when the same have been ascertained. Ms. Herington is further informed and
2 believe and based thereon allege that DOES 1 through 50 were and are, in some manner or
3 way, responsible for and liable to Ms. Herington for the events, happenings, and damages
4 hereinafter set forth below.

5 8. Ms. Herington is informed and believes and thereon alleges that at all times
6 herein mentioned, the subsidiaries, affiliates and other related entities of Defendant were
7 agents, servants and employees of Defendant, and at all times herein mentioned, each was
8 acting within the purpose and scope of such agency and employment and Defendant ratified
9 and approved the acts of such agents and employees. Ms. Herington also is informed and
10 believe and thereon allege that at all times herein mentioned, the employees of Defendant, its
11 subsidiaries, affiliates and other related entities were agents, servants and employees of
12 Defendant, and at all times herein mentioned, each was acting within the purpose and scope of
13 said agency and employment, and Defendant ratified and approved the acts of such agents and
14 employees.

15 **JURISDICTION & VENUE**

16 9. The amount in controversy exceeds the jurisdictional minimum for this court.
17 The unlawful acts and practices alleged herein occurred in, or concern, the County of Fresno in
18 the State of California.

19 10. Venue is proper in Fresno County under California Code of Civil Procedure §
20 395.5. Defendant's principal place of business is in operating the campus of Fresno State is in the
21 county of Fresno, California. Further, Fresno County is where the obligation or liability arose, or
22 the breach occurred.

23 11. This class action is brought pursuant to California Code of Civil Procedure § 382.
24 The monetary damages and restitution sought by Plaintiffs exceed the minimal jurisdiction limits
25 of the Superior Court and will be established according to proof at trial.

26 12. Plaintiff has complied with any and all requirements of the California Tort
27 Claims Act (Gov. Code §§ 810- 996.6) (the "Act") and exhausted her remedies by submitting
28 claims meeting the requirements of the Act regarding the claims set forth in this Complaint.

1 13. On March 12, 2019, Ms. Herington submitted her claims to CSU’s Risk
2 Management and Public Safety Department (as well as to CSU’s general counsel), relating to
3 the claims described below (Claim No. 2018-003497). On March 19, 2019, Ms. Martha
4 Guiditta sent a letter confirming that the claim was received, and an investigation begun.
5 However, no further notice was provided to Plaintiff on the status of the investigation, and more
6 than 45 days has passed since the claim was presented to Defendant.

7 **COMMON ALLEGATIONS OF FACT**

8 14. Whenever reference in this Complaint is made to any act or transaction of
9 Fresno State, such allegation shall be deemed to mean that the principals, officers, directors,
10 employees, agents, or representatives of Fresno State committed, knew of, performed,
11 authorized, ratified, or directed such act or transaction on behalf of Fresno State while actively
12 engaged in the scope of their duties.

13 15. Ms. Herington is a graduate of Fresno State’s nursing program, graduating with
14 a bachelor of science in nursing in 1995. She was a speaker at the graduation and graduated
15 with honors and as a member of the Sigma Theta Tau honor society. From 1996 to 1998 she
16 worked in orthopedics and neurology at Huntington Memorial Hospital in Pasadena, CA. She
17 transferred to the inpatient rehabilitation unit at the University of Southern California, and
18 eventually received her Master’s Degree in nursing with a family nurse practitioner specialty
19 from UCLA in 1999. She has more than 18 years of experience as a nurse practitioner.

20 16. Ms. Herington first heard about Fresno State’s PMHNP Program in 2017, after
21 researching online psych programs. The PMHNP program at Fresno State openly advertised
22 itself in its online course catalog and marketing material as a “formally constructed program
23 that meets the requirements for national certification by the American Nurse Credentialing
24 Center as an Adult Psychiatric and Mental Health or Family Psychiatric and Mental Health
25 Nurse Practitioner.” Since 2014, California has required that all nurse practitioners have
26 national certification and attend a school accredited by the ANCC. Ms. Herington intended to
27 practice as a certified PMH Nurse Practitioner upon graduating and passing the Boards, and
28 relied on the advertisements in selecting the program. She applied in fall 2017, and was

1 accepted into the program that summer. She paid her tuition to Fresno State, entering into a
2 contract with the school.

3 17. However, near the end of her first semester, Ms. Herington fell severely ill. She
4 applied for a medical withdrawal from the term, which was granted by Dean Griffin Meyers.
5 She submitted the final approval forms for the medical withdrawal in the second week of
6 December 2017.

7 18. After recovering from her illness, Ms. Herington decided in the spring of 2018
8 to reapply for admission back into the Fresno program after speaking with several classmates
9 from the 2017 class. She turned in the appropriate forms to the graduate office as required
10 several days before the due date and also completed the online application with Nursing CAS.

11 19. However, Ms. Herington was initially denied readmission, because multiple
12 administrators had failed to properly sign her withdrawal paperwork, causing her three “W’s”
13 to incorrectly appear as “F’s” on her transcript. After several months of complaints and
14 repeated meetings with administrators, the error was eventually corrected, and she was able to
15 re-enroll in the fall 2018 semester.

16 20. At the orientation for fall 2018 students, Dean Jody Hironaka-Juteau gave an
17 approximate 15-20 minute PowerPoint presentation to all the students discussing, among other
18 topics, how the PMHNP program and the nursing school was properly accredited by the CCNE
19 and certified by the ANCC.

20 21. Ms. Herington did well in her first semester, earning 2 A’s on her midterms. At
21 the same time, Ms. Herington spent weeks cold calling and emailing different doctors and
22 clinics to find a “preceptor” (an experienced practitioner in the field who supervises students
23 during their 515 unpaid hours of required clinical practice). Eventually Ms. Herington paid
24 \$495 to an agency called “Goals Healthcare” to help her find a preceptor; they succeeded in
25 finding her a position at TMS Health Solutions. Ms. Herington was going to be their first
26 Psychiatric Nurse Practitioner hire ever, and gave her the option for a permanent job upon
27 graduation and certification.

28 22. However, on October 19, 2018, Ms. Herington received an email from Sylvia

1 Miller, the nursing chair of the School of Nursing, which stated:

2 “Hello Andrea, The School of Nursing has been notified that some of the students
3 who previously graduated from this program have been denied eligibility to take
4 the certification. The School of Nursing has been in contact with the ANCC and
5 is working to resolve this matter. The program will continue with this Cohort as
6 planned.”

7 23. Ms. Herington and many other students who received this same email were
8 understandably concerned, as Psychiatric Nurse Practitioners in the state of California must be
9 certified in order to practice and bill for services including Medicare and MediCal populations,
10 and because her employment opportunity with TMS was contingent upon her receiving
11 national certification. She emailed several of Fresno State’s administrators, including Dean
12 Sylvia Miller and Dr. Janice Sanders, but received no response. Worried about her economic
13 future and the likelihood she would not only lose her job, but also have wasted all the clinical
14 hours she had already worked, she emailed President Castro asking for clarification.

15 24. Given that the students who had been denied eligibility to take the national
16 boards by the ANCC had informed the school of their denials in August 2018, Ms. Herington
17 alleges and believes Fresno State was completely aware of its lack of accreditation when it
18 enrolled students for the fall 2018 and spring 2019 semesters, including Ms. Herington. Ms.
19 Herington further alleges and believes that Fresno State withheld the fact of its lack of
20 accreditation intentionally, and continued advertising their program as being fully accredited
21 and certified after it knew it was not, and intentionally breached its contracts with students.

22 25. Ms. Herington and the other students in her cohort were all frequently advised
23 to stay in the program, and increased increasingly sporadic updates in which the administration
24 would only say generally that the PMHNP program was continuing and that they were
25 “working with the ANCC towards a solution.” Ms. Herington eventually realized that there
26 was no possibility for the school to be retroactively accredited by the ANCC, and that any
27 further time spent in the program was only wasting more of her money and career. She filed
28 the paperwork to withdraw from the school and requested a refund for her spring tuition on
November 2, 2018. When Ms. Herington sought her instructor Dr. Santy’s signature on the

1 withdrawal forms, she was chastised for quitting, and told “it seems like you are blaming
2 Fresno State” for the problem.

3 26. After Ms. Herington withdrew from the program, the remaining students in her
4 cohort continued asking for guidance from the administration, only to be told there was no new
5 updates about the situation. They were, however, encouraged by Dr. Sanders and Dean Miller
6 to stay in the program.

7 27. Eventually, on February 13, 2019, the dean emailed all current students, stating
8 that they had reached a “determination” with the ANCC, and confirmed that the school’s late
9 attempt to gain accreditation in the fall of 2019 could not retroactively apply to students prior
10 to those in the fall 2019 semester.

11 28. The email further stated that “for individuals who were able to begin or
12 complete the certification process prior to ANCC’s discovery that the PMHNP program was
13 not accredited, the following determinations have been made:

- 14 • To allow currently certified individuals and those who had passed the
15 PMHNP certification exam prior to ANCC’s discovery that the PMHNP
16 Post-Graduate Program was not accredited to maintain certification for up
17 to five (5) years from the date of notification to the clinicians, while they
18 seek completion of a nationally accredited PMHNP Post-Graduate
19 program. Individuals in this group who cannot demonstrate completion of
20 a nationally accredited PMHNP Post-Graduate program by the end of the
21 five-year period may face revocation of certification.
- 22 • To allow graduates of the PMHNP Post-Graduate program who
23 commenced the application process prior to discovery your PMHNP Post-
24 Graduate Program was not nationally accredited to be deemed
25 conditionally eligible to test (or retest, as applicable) once during the three
26 (3) months following the date of notice to the graduates. Passing test
27 scores will be held for up to five (5) years to allow these individuals to
28 demonstrate completion of a nationally accredited PMHNP Post-Graduate
program from the date of ANCC’s notification letter to the impacted
graduates. Failure to timely demonstrate completion of a nationally
accredited PMHNP Post-Graduate program may result in cancellation of
the test scores.
- All other graduates or students of your PMHNP Post-Graduate Program
will be ineligible to test or receive certification unless and until they can

1 demonstrate completion of a nationally accredited PMHNP Post-Graduate
2 program.

3 29. These determinations effectively meant that every student who had graduated
4 from Fresno State's PMHNP program in the previous five years had their entire degree and
5 clinical program work invalidated, and would need to repeat the program entirely (and redo
6 their hundreds of clinical hours) or lose their license within 5 years. Those who had not yet
7 graduated, including Ms. Herington, would likewise be ineligible to sit for the national boards
8 and would need to start their schooling and clinical work from scratch.

9 30. Having been harmed by Fresno State's actions and its breach of contract, the
10 Plaintiff prays for damages as alleged below.

11 CLASS ALLEGATIONS

12 31. Ms. Herington, on behalf of herself and the Class, brings this action pursuant to
13 California Code of Civil Procedure § 382, on behalf of herself and a Class defined as follows:

14 Class Description

15 All current and former students who were enrolled in the Psychiatric Mental
16 Health Nurse Practitioner ("PMHNP") program at California State University,
17 Fresno at any time between March 1, 2015 and the present.

18 32. Excluded from the Class is any judge, justice, or judicial officer presiding over
19 this matter and the members of their immediate families and judicial staff.

20 33. Ms. Herington reserves the right to modify the Class description and the Class
21 period based on the results of discovery.

22 34. **Numerosity.** Upon information and belief, there have been over 100 students
23 enrolled in the PMHNP program since March 2015, such that joinder of all Class members is
24 impracticable. While the exact number and identities of the Class members are unknown at this
25 time, such information can be ascertained through investigation and discovery of Defendant's
26 enrollment and tuition records. The disposition of the claims of the Class in a single class
27 action will provide substantial benefits to all parties and to the Court.

28 35. **Common Questions of Law and Fact Predominate.** There are many questions
of law and fact common to the claims of Ms. Herington and the Class, and those questions

1 predominate over any questions that may affect individual members of the Class. Common
2 questions for the Class include but are not limited to the following:

3 (a) Whether Fresno State entered into a valid contract with Class members by
4 accepting their tuition in exchange for promised services;

5 (b) Whether Fresno State's failure to provide an accredited training program to its
6 tuition-paying students constitutes a breach of that contract;

7 (c) Whether Fresno State was unjustly enriched by its scheme at the expense of Ms.
8 Herington and the Class;

9 (d) Whether Ms. Herington and the Class have been damaged by the breach;

10 (e) Whether Ms. Herington and the Class are entitled to restitution of all monies
11 acquired by Defendant from Ms. Herington and the Class; and

12 (e) Whether Ms. Herington and the Class are entitled to consequential damages
13 stemming from Defendant's breach.

14 36. **Typicality.** The factual and legal bases of Fresno State's liability to Ms.
15 Herington and to the other Class members are the same. All members of the class were parties
16 to a standardized contract with Fresno State, and Fresno State's failure to obtain proper
17 accreditation breached each contract in the same manner. Fresno State's breach then caused
18 injury to Ms. Herington and to all of the other Class members. Ms. Herington and the other
19 Class members have all suffered harm and damages as a result of Fresno State's unlawful and
20 wrongful conduct with respect to its breach of the contract.

21 37. Additionally, Fresno State has acted and failed to act on grounds generally
22 applicable to the Ms. Herington and the other Class members in marketing and selling its
23 services and subsequently breaching its contract, requiring the Court's imposition of uniform
24 relief to ensure compatible standards of conduct toward Class members.

25 38. **Adequacy of Representation.** Ms. Herington will fairly and adequately
26 represent and protect the interests of the Class. Ms. Herington has retained counsel with
27 substantial experience in prosecuting complex and class action litigation. Ms. Herington and
28 her counsel are committed to vigorously prosecuting this action on behalf of the Class, and

1 have the financial resources to do so. Neither Ms. Herington nor her counsel have any interests
2 adverse to those of the Class.

3 39. **Superiority of Class Action.** Ms. Herington and the Class members suffered,
4 and will continue to suffer, harm as a result of Fresno State's unlawful and wrongful conduct.
5 A class action is superior to other available methods for the fair and efficient adjudication of
6 the present controversy. Individual joinder of all members of the class is impractical. Even if
7 individual Class members had the resources to pursue individual litigation, it would be unduly
8 burdensome to the courts in which the individual litigation would proceed. Individual litigation
9 magnifies the delay and expense to all parties in the court system of resolving the controversies
10 engendered by Fresno State's common course of conduct. The class action device allows a
11 single court to provide the benefits of unitary adjudication, judicial economy, and the fair and
12 equitable handling of all class members' claims in a single forum. The conduct of this action as
13 a class action conserves the resources of the parties and of the judicial system, and protects the
14 rights of the class member. Furthermore, for many, if not most, class members, a class action is
15 the only feasible mechanism that allows therein an opportunity for legal redress and justice.

16 **FIRST CAUSE OF ACTION**
17 **Breach of Contract**
18 **(On Behalf of Ms. Herington and the Class)**

19 40. Once Ms. Herington paid her first tuition to the Board of Trustees of California
20 State University, a contract existed between her and the Defendant, for Defendant to provide
21 certain educational services accredited by the CCNE as part of the PMNHP program.

22 41. All proposed-members of this class action signed and entered into substantially
23 similar contracts with Defendant providing for the same CCNE accredited educational services
24 as part of the PMNHP program.

25 42. Fresno State advertised the terms of the PMNHP program offered at its campus
26 in its advertising material and on its website.

27 43. By enrolling in classes under the PMNHP program, the proposed class offered
28 to purchase Defendant's advertised educational services at the advertised prices, and by
accepting the students' enrollment, Fresno State accepted the students' offers.

1 44. These offers were supported by consideration in that the students would receive
2 the benefit of a higher education that has been accredited by the CCNE, which they would be
3 able to use to get licensed nationally by the ANCE, and Defendant would receive the benefit of
4 being paid tuition.

5 45. The terms of the obligations and education to be provided by Defendant were
6 listed clearly and definitely in its course catalog materials, its advertising, and the website of
7 Fresno State, which declared that the program was a “formally constructed program that meets
8 the requirements for national certification by the American Nurse Credentialing Center as an
9 Adult Psychiatric and Mental Health or Family Psychiatric and Mental Health Nurse
10 Practitioner.”

11 46. Through their actions in failing to acquire or retain accreditation of the CCNE
12 as promised, the Board of Trustees breached the contract and did not provide the product the
13 students had contracted to receive.

14 47. Indeed, the lack of accreditation rendered the program professionally worthless,
15 and all members of the class were and are forced to not only retake a new educational program,
16 but also repeat the hundreds of supervised hours of clinical work that is required of all students
17 seeking national certification.

18 48. Defendant, without legal excuse, failed to provide Ms. Herington or the Class
19 members educational services that met the promised minimum standards.

20 49. Defendant therefore breached its contract with Ms. Herington and all Class
21 members.

22 50. As a direct, foreseeable, and proximate result of Fresno State’s wrongful breach
23 alleged herein, Ms. Herington and the Class seek damages in an amount to be determined
24 according to proof at the time of trial, but in an amount in excess of the jurisdictional
25 requirements of this Court. Ms. Herington and the Class also seek equitable and injunctive
26 relief, plus the right to attorneys’ fees as specified in the prayer for relief.

27 **PRAYER FOR RELIEF**

28 WHEREFORE, Ms. Herington, on behalf of herself, and the Class, and in the public

1 interest, pray for judgment and relief as follows:

2 A. With respect to the class claims, a declaration that the action is a proper class
3 action, that Ms. Herington be appointed as an adequate class representative, and that her
4 counsel be appointed as class counsel;

5 B. For injunctive relief compelling Fresno State to fully fulfill and perform the
6 terms of its contract, if possible.

7 C. In the alternative, and where appropriate, rescission or restitution, or other
8 appropriate equitable relief;

9 D. For compensatory and consequential damages in an amount to be determined
10 according to proof at the time of trial;

11 E. For interest at the highest legal rate commencing from the earliest date allowed
12 by law;

13 F. For costs of suit incurred herein;

14 G. For reasonable attorneys' fees pursuant to Code of Civil Procedure Section
15 1021.5, if the Court finds such section applicable, or any other available basis; and

16 H. For other and further relief as the Court may deem just and proper.

17
18 Dated: April 30, 2019

Respectfully submitted,

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20 

Roberto Ripamonti

21 *Attorney for Plaintiff Andrea Herington*
22 *and the putative Class*