

**UNITED STATES DISTRICT COURT  
NORTHERN DISTRICT OF NEW YORK**

**JUDGMENT IN A CIVIL CASE**

**Jeffrey Chery**

Plaintiff(s)

vs.

**CASE NUMBER: 1:18-cv-75 (DNH/CFH)**

**Conduent Education Services, LLC,**

**Access Group, Inc., Access Funding 2015-1, LLC**

Defendant(s)

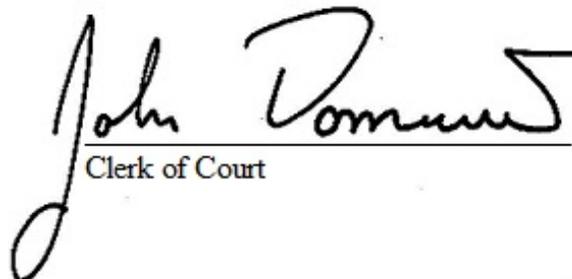
**Decision by Court.** This action came to trial or hearing before the Court. The issues have been tried or heard and a decision has been rendered.

IT IS ORDERED AND ADJUDGED: ORDERED that 1. The motion for final approval is GRANTED; 2. The form, content, and method of dissemination of the Notices<sup>1</sup> given to the Class was adequate and reasonable and constituted the best notice practicable under the circumstances, including individual first-class mailed notices to all Class Members who could be identified through reasonable effort; 3. The Notice, as given, complied with the requirements of Rule 23 of the Federal Rules of Civil Procedure, satisfied the requirements of due process, and constituted due and sufficient notice; 4. The Settlement set forth in the Stipulation is fair, reasonable, and adequate, and in the best interests of the Class, particularly in light of the fact that (a) the Settlement was negotiated vigorously, in good faith, and at arms length by plaintiff and his experienced counsel on behalf of the Class;(b) the matter settled only after extensive negotiations conducted under the auspices of a retired U.S. Magistrate Judge; (c) required full briefing and contested motion practice at various stages of the litigation, as set forth supra; (d) involved substantial discovery, including the depositions of four expert witnesses, and motion practice as to same; and (e) in the event the Settlement had not been achieved, both parties faced considerable expense, risk, burdens, and uncertainty of continued litigation; 5. The Stipulation and Settlement are APPROVED as final, fair, reasonable, and adequate; 6. The Settlement shall be CONSUMMATED in accordance with the terms and provisions of the Stipulation; 7. Plaintiff, all Class Members, and defendants are bound by the terms of the Settlement as set forth in the Stipulation; 8. The Action and all claims that are or have ever been contained therein, as well as all of the Released Claims, are DISMISSED WITH PREJUDICE as to Plaintiff, the Class Members, and all other Releasing Parties; 9. The parties are to bear their own costs except as otherwise provided in the Stipulation; 10. All Released Defendants as defined in the Stipulation are RELEASED in accordance with, and as defined in, the Stipulation; 11. Upon the Effective Date of the Settlement, Plaintiff and all Class Members, on behalf of themselves and of each of the Releasing Parties, shall be deemed to have, and by operation of this Final Judgment shall have, fully, finally, and forever waived, released, relinquished, and discharged all Released Claims against the Released Defendants, regardless of whether such Class Member cashes a settlement check or executes and delivers a Verification; 12. Upon the Effective Date of the Settlement, each of the Defendants shall be deemed to have, and by operation of this Final Judgment, shall have fully, finally, and forever released and discharged Plaintiff, Plaintiffs Counsel, and each and all of the Class Members from any and all claims relating to the institution, prosecution, or settlement of: (a) the Action or (b) the Released Claims; 13. Nothing in this Final Judgment shall operate or be construed to

release any claims or rights Defendants have to recover any past, present, or future amounts that may be owed by Plaintiff or Class Members on his/her accounts, loans, or any other debts owed to or serviced by Defendants, pursuant to the terms and conditions of such accounts, loans, or any other debts; 14. All Class Members who have not made timely objections to the Settlement or Motion for Attorneys Fees, Expenses, and Class Representative Service Award in the manner provided for in the Notices are deemed to have waived any objections by appeal, collateral attack, or otherwise; 15. All Class Members who did not timely exclude themselves from the Class are bound by the terms and conditions of the Stipulation and this Final Judgment and release and forever discharge the Released Defendants from all Released Claims as provided for in the Stipulation and this Order; 16. Plaintiffs Counsel are awarded attorneys fees in the amount of \$1,083,333.33, which sum the Court finds to be fair and reasonable, and are awarded reimbursement of expenses in the amount of \$72,667.11, both of which sums shall be paid from the Settlement Amount; 17. The Court finds that an award to Plaintiff for his time and efforts in representing the Class in the prosecution of this Action is fair and reasonable, and thus awards \$25,000.00 to the Plaintiff from the Settlement Amount; 18. All other provisions of the Stipulation are incorporated into this Final Judgment as if fully reproduced in this Order; 19. Plaintiff, all Class Members, and all other Releasing Parties are BARRED AND PERMANENTLY ENJOINED from instituting, commencing, maintaining, or prosecuting in any court or tribunal any of the Released Claims against any of the Released Defendants; 20. Defendants and their successors or assigns are BARRED AND PERMANENTLY ENJOINED from instituting, commencing, maintaining, or prosecuting any claims relating to the institution, prosecution, or settlement of: (a) the Action or (b) the Released Claims against Plaintiff, Class Members, or Plaintiffs Counsel; 21. The Plan of Allocation as set forth in the Notices is APPROVED as fair and reasonable; 22. Plaintiffs Counsel are directed to arrange for the administration of the Settlement and payments to Eligible Class Members in accordance with its terms and conditions; 23. Any modification or change in the Plan of Allocation that may hereafter be approved shall in no way disturb or affect this Final Judgment or the released provided in this Order and shall be considered separate from this Final Judgment; 24. The Court decrees that neither the Stipulation nor this Final Judgment, nor even the fact of the Settlement is an admission or concession by the Released Defendants, or any of them, of any liability or wrongdoing; 25. The Court further decrees that this Final Judgment is not a finding of the validity or invalidity of any of the claims asserted or defenses raised in the Action; 26. The Action is DISMISSED WITH PREJUDICE; 27. The Court retains jurisdiction over compliance with the Stipulation and this Final Judgment.

All of the above pursuant to the order of the Honorable David N. Hurd, dated the 2<sup>nd</sup> day of December, 2022.

DATED: December 2, 2022

  
Clerk of Court

s/Kathy Rogers  
Deputy Clerk

# Federal Rules of Appellate Procedure

## Rule 4. Appeal as of Right

### (a) Appeal in a Civil Case.

#### 1. (1) *Time for Filing a Notice of Appeal.*

(A) In a civil case, except as provided in Rules 4(a)(1)(B), 4(a)(4), and 4(c), the notice of appeal required by Rule 3 must be filed with the district clerk within 30 days after entry of the judgment or order appealed from.

(B) The notice of appeal may be filed by any party within 60 days after entry of the judgment or order appealed from if one of the parties is:

- (i) the United States;
- (ii) a United States agency;
- (iii) a United States officer or employee sued in an official capacity; or
- (iv) a current or former United States officer or employee sued in an individual capacity for an act or omission occurring in connection with duties performed on the United States' behalf—including all instances in which the United States represents that person when the judgment or order is entered or files the appeal for that person.

(C) An appeal from an order granting or denying an application for a writ of error *coram nobis* is an appeal in a civil case for purposes of Rule 4(a).

(2) *Filing Before Entry of Judgment.* A notice of appeal filed after the court announces a decision or order—but before the entry of the judgment or order—is treated as filed on the date of and after the entry.

(3) *Multiple Appeals.* If one party timely files a notice of appeal, any other party may file a notice of appeal within 14 days after the date when the first notice was filed, or within the time otherwise prescribed by this Rule 4(a), whichever period ends later.

#### (4) *Effect of a Motion on a Notice of Appeal.*

(A) If a party timely files in the district court any of the following motions under the Federal Rules of Civil Procedure, the time to file an appeal runs for all parties from the entry of the order disposing of the last such remaining motion:

- (i) for judgment under Rule 50(b);
- (ii) to amend or make additional factual findings under Rule 52(b), whether or not granting the motion would alter the judgment;
- (iii) for attorney's fees under Rule 54 if the district court extends the time to appeal under Rule 58;
- (iv) to alter or amend the judgment under Rule 59;
- (v) for a new trial under Rule 59; or
- (vi) for relief under Rule 60 if the motion is filed no later than 28 days after the judgment is entered.

(B)(i) If a party files a notice of appeal after the court announces or enters a judgment—but before it disposes of any motion listed in Rule 4(a)(4)(A)—the notice becomes effective to appeal a judgment or order, in whole or in part, when the order disposing of the last such remaining motion is entered.

(ii) A party intending to challenge an order disposing of any motion listed in Rule 4(a)(4)(A), or a judgment's alteration or amendment upon such a motion, must file a notice of appeal, or an amended notice

of appeal—in compliance with Rule 3(c)—within the time prescribed by this Rule measured from the entry of the order disposing of the last such remaining motion.

#### (5) *Motion for Extension of Time.*

(A) The district court may extend the time to file a notice of appeal if:

- (i) a party so moves no later than 30 days after the time prescribed by this Rule 4(a) expires; and
- (ii) regardless of whether its motion is filed before or during the 30 days after the time prescribed by this Rule 4(a) expires, that party shows excusable neglect or good cause.

(B) A motion filed before the expiration of the time prescribed in Rule 4(a)(1) or (3) may be ex parte unless the court requires otherwise. If the motion is filed after the expiration of the prescribed time, notice must be given to the other parties in accordance with local rules.

(C) No extension under this Rule 4(a)(5) may exceed 30 days after the prescribed time or 14 days after the date when the order granting the motion is entered, whichever is later.

(6) *Reopening the Time to File an Appeal.* The district court may reopen the time to file an appeal for a period of 14 days after the date when its order to reopen is entered, but only if all the following conditions are satisfied:

- (A) the court finds that the moving party did not receive notice under Federal Rule of Civil Procedure 77 (d) of the entry of the judgment or order sought to be appealed within 21 days after entry;
- (B) the motion is filed within 180 days after the judgment or order is entered or within 14 days after the moving party receives notice under Federal Rule of Civil Procedure 77 (d) of the entry, whichever is earlier; and
- (C) the court finds that no party would be prejudiced.

#### (7) *Entry Defined.*

(A) A judgment or order is entered for purposes of this Rule 4(a):

- (i) if Federal Rule of Civil Procedure 58 (a) does not require a separate document, when the judgment or order is entered in the civil docket under Federal Rule of Civil Procedure 79 (a); or
- (ii) if Federal Rule of Civil Procedure 58 (a) requires a separate document, when the judgment or order is entered in the civil docket under Federal Rule of Civil Procedure 79(a) and when the earlier of these events occurs:

- the judgment or order is set forth on a separate document, or
- 150 days have run from entry of the judgment or order in the civil docket under Federal Rule of Civil Procedure 79 (a).

(B) A failure to set forth a judgment or order on a separate document when required by Federal Rule of Civil Procedure 58 (a) does not affect the validity of an appeal from that judgment or order.