

STATE OF MINNESOTA

DISTRICT COURT

COUNTY OF HENNEPIN

FOURTH JUDICIAL DISTRICT

Case Type: Civil

Katie Boser, Scott Ellison,
Jillian Ferderer, Alayna Getchell,
Ashley Gilbert, Kira Johanson, Nicole Larson,
Jill Lundeen, Anna Moore, Shae Pelowski,
Haley Sanders, Courtney Schull, and Camra Sveiven,

Court File No.: _____

Plaintiffs,

v.

COMPLAINT AND
JURY TRIAL DEMAND

University of Minnesota - Duluth
and John and Jane Does 1 through 10 (whose true names
are unknown),

Defendants.

COMES NOW, Plaintiffs Katie Boser, Scott Ellison, Jillian Ferderer, Alayna Getchell, Ashley Gilbert, Kira Johanson, Nicole Larson, Jill Lundeen, Anna Moore, Shae Pelowski, Haley Sanders, Courtney Schull, and Camra Sveiven, represented by William A. Sand and Richard R.W. Sand of SAND LAW, LLC and Margaret O'Sullivan Kane of Kane Education Law, LLC for their cause of action and complaint herein against Defendants University of Minnesota – Duluth (“UMD”) and John/Jane Does 1 through 10, (“Does”)(collectively “UMD Defendants”) and aver as follows:

INTRODUCTION

Each of the named-plaintiffs attended the University of Minnesota Duluth, College of Education until their graduation in December 2014. The Plaintiffs attended UMD in order to obtain an education degree. Defendant UMD, its representatives, agents and employees, Defendants Does (collectively "UMD Defendants") represented to Plaintiffs that the College of Education program they were attending, the Integrated Elementary and Special Education Program ("IESE"), was accredited and would result in licensure in the state of Minnesota. At no time were Plaintiffs told that the IESE program was not accredited. UMD Defendants withheld the accreditation status from the Plaintiffs. It was not until after graduation that the Plaintiffs learned the scope of UMD Defendants' misconduct from a local news story.

Because UMD's IESE program was not accredited, the Plaintiffs were denied the both their Elementary Education and their Special Education licensures from the Minnesota Board of Teaching ("BoT"). Subsequently, UMD Defendants took ineffective remedial measures by offering Plaintiffs "temporary licensure". According to UMD, Plaintiffs were to request their temporary licensure through the UMD Defendants. However, the UMD Defendants made the "temporary licensure" available only after Plaintiffs' opportunities for employment in the field had passed and only for those Plaintiffs who had demonstrable offers of employment. For those few Plaintiffs able to obtain employment without the requisite licensure, the UMD Defendants exacerbated the damage by significantly delaying the provision of the temporary licensure to those Plaintiffs. Finally, the licensure granted to some of the Plaintiffs is non-renewable, leaving all of the Plaintiffs' professional futures in jeopardy.

Allegations Common to All Counts

PARTIES AND ENTITIES

PLAINTIFFS

1. Plaintiffs are residents of the state of Minnesota and at all times relevant herein attended the UMD.

DEFENDANTS

2. Defendant UMD is a public post-secondary educational institution located at 1049 University Drive, Duluth, Minnesota 55812.
3. Defendants John/Jane Does 1 through 10 in their representative and individual capacities though the names of the individuals are unknowable without discovery. Plaintiffs will amend this complaint to allege their true names and capacities when ascertained.
4. Plaintiffs assert that Defendants are joint and severally liable as to all claims herein.

JURISDICTION AND VENUE

5. This Court has personal jurisdiction over Defendants as, at all relevant times, they have engaged in substantial business activities and/or resided in the State of Minnesota.
6. This Court has personal jurisdiction over Defendants under Minn. Stat. § 543.1 (1) (2014) as Defendants: transact business within Minnesota; and/or committed act(s) in Minnesota causing injury; and/or committed act(s) outside Minnesota causing injury in Minnesota, either on their own or through their agents.
7. Plaintiffs seek monetary damages.
8. Venue over Defendants is proper because *Hennepin County* is where Defendants reside, and/or do business, and/or have had substantial, systematic and continuous contacts.

FACTUAL ALLEGATIONS

9. The preceding paragraphs are incorporated by reference as if set forth fully herein.
10. This action arises out of civil wrongs committed by UMD against the Plaintiffs, all of which are December 2014 graduates from UMD.
11. In 2012, UMD began offering the IESE program through the UMD College of Education. The program integrated two prior existing degree programs within UMD's College of Education: Elementary Education and Special Education. Prior to UMD's offering the IESE program, a student would have to obtain separate degrees in Elementary Education and Special Education to become licensed in those respective areas.
12. UMD and its representatives, employees and agents, including but not limited to John/Jane Does 1 – through 10, represented to the named-Plaintiffs that upon completion of the IESE degree, those Plaintiffs who completed the degree would earn an IESE degree as well as possess the requisite licensure in the state of Minnesota to become employed within the education field. The Defendants represented to each of the Plaintiffs that completion of the IESE program would result in licensure through the State of Minnesota and the Minnesota Board of Teaching ("BoT").
13. In order for a student to receive a teaching license, the program they graduated from must have been approved by the BoT. For a program to be approved by the BoT, the institution offering the program was required to submit certain material and follow specific protocols laid out by the BoT. On information and belief, once approved by the BoT the program is then be recognized as accredited by the Minnesota Department of Education ("MDE").
14. On information and belief, the degree, licensure requirements and submission protocols for IESE accreditation, as established by the BoT, changed during 2012 and 2013.

15. BoT notified UMD Defendants on multiple occasions regarding the required changes and additional submissions for UMD's IESE program.. UMD not only failed to comply with these updated requirements and protocols, which eventually prevented the IESE program being accredited, but also it failed to disclose this information to any of the Plaintiffs attending the IESE program. On the contrary, UMD continued making representations to the Plaintiffs that the IESE program was accredited and would result in licensure in the state of Minnesota.
16. In December of 2014 the first group of students graduated from UMD's IESE program. Consistent with the education field's employment patterns, Plaintiffs began applying for teaching positions prior to graduation.
17. In October 2014, during the same time the Plaintiffs were seeking employment, some of the Plaintiffs discovered that the IESE program was not accredited by the BoT. UMD, however, withheld the information from the Plaintiffs that the IESE program was not accredited until after they graduated in January 2015.
18. In Minnesota, a license from an accredited college is a known and accepted pre-requisite to employment within public and private schools.
19. Many of the Plaintiffs had applied for and been offered teaching positions, pending the receipt of their licensure. On January 8, 2015 UMD's Dean of the College of Education, Dean Jill Pickney-Pastrana ("Pickney-Pastrana") sent an email to the Plaintiffs notifying them that there was a "glitch" in the licensing process and that the issue would soon be resolved. The Plaintiffs were extraordinarily confused, angry, anxious and crestfallen finding out that their pending careers were now in jeopardy.

20. At no time prior to or after the date of the January 8, 2015 “glitch” email has any of the UMD Defendants reached out to Plaintiffs to assist them with this issue or guide them through the process. On the contrary, UMD Defendants have refused to provide the Plaintiffs with any information and have responded to each of them as if resolution of their licensing were a nuisance.
21. On January 12, 2015, Pickney-Pastrana emailed the Plaintiffs instructing those Plaintiffs who had current job-offers to submit proof of employment to UMD for a temporary license. No information was provided for those Plaintiffs who did not have employment offers but who were continuing to search. UMD’s email came the day before a local news outlet reported the problems UMD was having with their accreditation status.
22. On January 14, 2015 the Duluth News Tribune printed an article titled *Glitch’ leaves 10 UMD teaching grads ineligible for license*. In the article, UMD Executive Vice Chancellor of Academic Affairs, Andrea Schokker (“Schokker”), was interviewed about the problems UMD had been facing regarding accreditation. Schokker, referring to UMD’s failure to comply with BoT requirements, stated “[w]e should have gotten things in on time.” The article further states that Pinkney-Pastrana and Schokker “learned of the lapse in October.” The article goes on to say that the BoT “probably will approve [UMD’s program] at [the Board of Teaching’s] February meeting....” *Duluth News Tribune, ‘Glitch’ leaves 10 UMD teaching grads ineligible for license, January 14, 2015*.
23. On January 15, 2015 Schokker held a half-hour meeting to discuss the then present situation with the graduates. On information and belief, Schokker told the graduates at this meeting that bringing a lawsuit would only lengthen the licensing process.

24. On information and belief, on March 4, 2015 UMD sent materials to the BoT requesting an external review, a process expected to take six (6) months. UMD informed the graduates that they intended to send them a memo explaining the current status of the graduates' license within a week of this date for the graduates to share with potential employers.
25. On information and belief, UMD sent memorandum titled *Teacher Licensing Delay* on March 6, 2015 to the current students in the College of Education programs but did not send the memorandum to Plaintiffs. The UMD memo was subsequently sent to Plaintiffs on March 13, 2015.
26. On or about March 25, 2015 Pickney-Pastrana held a meeting with current students to discuss the licensure issues within the College of Education and to answer questions. The Plaintiffs, as graduates of the program, were not invited to attend.
27. On April 10, 2015 the BoT declined accreditation for UMD's IESE program. It is unclear when UMD identified or discovered that the BoT declined to accredit the IESE program at UMD. The meeting minutes from that date read as follows:

Disapproval: University of Minnesota – Duluth

L. Clarkson made a motion that the Board of Teaching disapprove the following teacher licensure programs of April 10, 2015, in accordance with MN rule 8700.7600 subpart 5aA-F and Subpart 7d. J. Barnhill seconded the motion. K. Palmen abstained. The motion passed. (As of this date, new students cannot be enrolled in this disapproved licensure program. Candidates enrolled prior to April 10, 2015 may be recommended for this licensure upon completion of the approved program if they are recommended to the state by December 31, 2017.

28. During the April 10, 2015 BoT meeting Pickney-Pastrana admitted to the BoT that "many errors caused the UMD teacher prep program to become non-compliant with program requirements." Further, Pickney-Pastrana stated that "none of these errors were the fault of the students...."

29. Pickney-Pastrana requested that UMD receive a variance for the errors and the BoT responded:

The unit will be granted *conditional approval status* contingent upon evaluation of a written report, showing compliance to unmet standards and validated by an onsite Board of Teaching review team prior to April 10, 2016. Upon receipt of the review team's findings report, the Board will act to reconsider the approval status of the unit. J. Baumann seconded the motion. K. Palmen abstained. The motion passes.

30. As a result of the lack of proper and delayed licensure, each of the above-named Plaintiffs have suffered damages including but not limited to, lack of employment, inability to move to another state, loss of employment and employment opportunities, out of pocket expenses, humiliation, anxiety and embarrassment. The damage done to the Plaintiffs was exacerbated by the UMD Defendants through their failure to respond or communicate with the Plaintiffs. Some Plaintiffs were offered temporary license status (which they were told would last through June 2015) if that particular graduate had a pending job offer. Some Plaintiffs were told that the matter would be heard by the MDE later in the year. Other Plaintiffs were not given an explanation or forecast of what was to become of their teaching license.

31. Many of the graduates who had been offered a temporary teaching license because of their "pending career offer" status were required to comply with complex administrative procedures, which only resulted in further delays and uncertainty. Plaintiffs were instructed by UMD Defendants to request their official transcript through the UMD website. The transcripts were supposed to be delivered to their home via US mail. After receiving the transcripts, the Plaintiffs were to provide the transcript back to UMD Defendants who

would then mail the official transcript along with the temporary license request to the Minnesota Department of Education and the BoT.

32. Several Plaintiffs who had pending career offers lost those offers due to UMD's failure to issue a full-time teaching license in a timely manner. Other Plaintiffs lost access to benefits and seniority / tenure privileges for the school year because of their license uncertainty. Still other Plaintiffs were not able to assume their professional positions by specific deadlines. All Plaintiffs lost income and professional opportunities because of these delays.
33. In addition to the outright loss of income and employment opportunities, the Plaintiffs continue to suffer damages. The temporary licenses expired in June 2015. Those Plaintiffs with temporary licensure are subject to being *excessed*¹ for the 2015/16 school year.
34. As a result of UMD Defendants' misconduct, Plaintiffs suffered specific damages, including but not limited to, tuition, books, housing, professional fees and expenses, interest on loans, and lost income, earning and benefits.
35. As of the date of this Complaint, many of the Plaintiffs received a "non-renewable" full-time license.
36. The Facts section of the Complaint may be amended as the parties engage in discovery and as additional damages become known.

¹*Excessed* is a term which refers to teachers having to reapply for their position internally in order to secure that position for the following school year. Also, graduates applying for summer positions struggled to secure employment because of the June 2015 temporary license expiration.

COUNT I
Fraudulent Misrepresentation

37. The preceding and succeeding paragraphs are incorporated by reference as if set forth fully herein.
38. UMD Defendants made affirmative representations, as well as deliberate omissions of material facts, to the Plaintiffs. Specifically, that upon completion of UMD's IESE program Plaintiffs would graduate with an accredited degree, which would make Plaintiffs eligible for two separate teaching licenses.
39. Such statements, and all subsequent statements whether made orally or writing, were false because UMD's IESE program was not accredited. Therefore, the Plaintiffs could not receive their full-time teaching licenses.
40. Such representations made by UMD Defendants concerned material and present facts, as well as intentional and deliberate omission of material facts, at the time the representations were made.
41. UMD Defendants' affirmative representations and deliberate, intentional omissions were material because the Plaintiffs relied upon the representations when each entered the IESE program with the goals of graduating from an accredited program and becoming licensed teachers upon graduation.
42. UMD Defendants knew or should have known that the representations were false when it promoted the IESE program to prospective students and the teaching community. Each named UMD Defendant had an affirmative duty to disclose its lack of accreditation to the Plaintiffs. The duty required the disclosures to be accurate and timely. Each UMD Defendant is specifically charged with the responsibility of knowing and disclosing this information to prospective students and the teaching community.

43. UMD Defendants made the representations that the IESE program was accredited knowing such a representation was false or asserted said representation without knowledge of whether that representation was true.
44. UMD Defendants made the representation with the intent to induce prospective students to enroll at their institution and pay tuition.
45. Each of the named UMD Defendants owed the Plaintiffs a duty to affirmatively and timely disclose complete and accurate information about UMD's IESE program and its accreditation. The UMD Defendants also had a duty not to withhold timely, complete and accurate information about the IESE program and its accreditation. Each of the named UMD Defendants had a knowing awareness of the duty to disclose to the Plaintiffs but instead made a deliberate, intentional and conscious choice to disregard this duty.
46. Each named Plaintiff in this case relied to their detriment upon those representations and were induced to attend UMD's IESE program based on those representations.
47. Plaintiffs relied upon the UMD Defendants' representations by enrolling in UMD's IESE program. Plaintiffs enrolled with the belief that they would graduate with a degree that would make them eligible for two separate teaching licenses.
48. Plaintiffs suffered harm to their reputation and standing in the community, mental distress, humiliation, embarrassment, as well as economic and employment losses including but not limited to, loss of educational and employment opportunities, loss of tuition and cost of living, loss of wages, loss of benefits, loss of tenure, and loss of experience.
49. These damages are all attributable to the UMD Defendants' representation.

COUNT II
Negligent Misrepresentation

50. The allegation of the preceding and succeeding paragraphs are hereby incorporated by reference as if set forth fully herein.
51. UMD Defendants had a pecuniary interest in obtaining students to attend their IESE program because UMD benefitted financially from the Plaintiffs' tuition.
52. UMD Defendants failed to exercise reasonable care and/or competence in obtaining and/or communicating information to the BoT and to the Plaintiffs regarding the IESE program.
53. UMD Defendants thereby supplied false information to the Plaintiffs while guiding them in their education-related business transaction. The business transaction in this case was the Plaintiffs paying tuition for an accredited degree, which did not exist, that would lead to a teacher's license upon graduation.
54. Plaintiffs justifiably relied upon this information by enrolling at UMD in the IESE program with the belief that the program was accredited and would confer upon them, as represented, two separate teaching licenses. Because of UMD Defendants' conduct the Plaintiffs' suffered significant pecuniary and non-pecuniary losses.
55. Plaintiffs suffered harm to their reputation and standing in the community, mental distress, humiliation, embarrassment, as well as economic and employment losses including but not limited to, educational and employment opportunities, tuition and cost of living, wages, benefits, and tenure.

COUNT III
Reckless Misrepresentation

56. The allegation of the preceding and succeeding paragraphs are hereby incorporated by reference as if set forth fully herein.
57. UMD Defendants made representations, without fulfilling their duties to ensure that the representations were timely, accurate and complete, to the Plaintiffs that upon completion of the successful of the UMD's IESE program Plaintiffs would graduate with an accredited degree that would make them eligible for two separate teaching licenses.
58. These representations were false because UMD's IESE program was not accredited and therefore the Plaintiffs could not receive their full-time teaching licenses.
59. The representation made by UMD Defendants was a material and essential because the Plaintiffs entered the program believing they would graduate from an accredited program and would become licensed teachers upon graduation.
60. The representation made by UMD Defendants was readily susceptible to knowledge as the UMD Defendants were responsible for knowing the accreditation status and openly and actively promoted the program to prospective students and the teaching community.
61. UMD Defendant made the representation with the intent to induce prospective students to enroll at their institution and pay tuition.
62. The Plaintiffs in this case were induced to attend UMD's IESE program based on UMD Defendants' representations.
63. The Plaintiffs acted on reliance to UMD Defendants' representation by enrolling at UMD's IESE program with the belief that they would graduate with a degree that would make Plaintiffs eligible for two separate teaching licenses.

64. Plaintiffs suffered harm to their reputation and standing in the community, mental distress, humiliation, embarrassment, as well as economic and employment losses including but not limited to, educational and employment opportunities, tuition and cost of living, wages, benefits, and tenure.

65. These damages are all directly and proximately attributable to UMD Defendants' representations and conduct.

COUNT IV
Misrepresentation by Omission

66. The allegation of the preceding and succeeding paragraphs are hereby incorporated by reference as if set forth fully herein.

67. UMD Defendants concealed from Plaintiffs material facts regarding the IESE program and its accreditation status.

68. UMD Defendants knew that the IESE program was not approved for accreditation and failed to inform the Plaintiffs of this fact.

69. UMD knew that the Plaintiffs would remain students at UMD and continue to pay UMD tuition on the affirmative representations by UMD Defendants that the program was approved for accreditation and that Plaintiffs would receive their teaching licenses.

70. UMD had a duty to communicate the essential and material fact that the IESE program had not been approved for accreditation.

71. Plaintiffs suffered harm to their reputation and standing in the community, mental distress, humiliation, embarrassment, as well as economic losses: loss of tuition and cost of living, loss of wages, loss of benefits, loss of tenure, and loss of experience.

72. These damages are all attributable to UMD Defendants' omissions.

COUNT V
Intentional Infliction of Emotional Distress

73. The allegation of the preceding and succeeding paragraphs are hereby incorporated by reference as if set forth fully herein.
74. UMD Defendants' conduct of holding out the IESE program as an accredited program was extreme and outrageous;
75. UMD Defendants' conduct of holding out the IESE program as an accredited program was intentional and/or reckless;
76. UMD Defendants' conduct of holding out the IESE program as an accredited program caused Plaintiffs emotional distress; and
77. The distress that the Plaintiffs suffered was severe.

COUNT VI
Breach of Contract

78. The allegation of the preceding and succeeding paragraphs are hereby incorporated by reference as if set forth fully herein.
79. UMD Defendants and the Plaintiffs entered into a contract. The contracts consideration for UMD was that, among other things, the Plaintiffs would pay UMD tuition. Plaintiffs' consideration was that, among other things, upon completion of the IESE program, Plaintiffs would graduate with an accredited degree that would make them eligible for two separate teaching licenses.
80. The Plaintiffs paid UMD tuition.
81. The Plaintiffs completed the IESE program.
82. The degree from the IESE was not accredited and did not make the Plaintiffs eligible for two separate teaching licenses upon completion of the IESE program.

83. UMD Defendants breached the contract by not providing the Plaintiffs with an accredited degree. Consequently, the Plaintiffs were unable to obtain teaching licenses upon graduation.

**COUNT VII
Negligence**

84. The allegation of the preceding and succeeding paragraphs are hereby incorporated by reference as if set forth fully herein.

85. UMD Defendants owed a duty to Plaintiffs to keep provide them with an accredited degree that would allow them to pursue a teaching license upon graduation. UMD Defendants breached that duty by failing to provide Plaintiffs with an accredited degree that would allow them to pursue a teaching license upon graduation. As a proximate cause of UMD Defendants' failure to provide Plaintiffs with an accredited degree that would allow them to pursue a teaching license upon graduation, the Plaintiffs were injured.

86. Plaintiffs suffered harm to their reputation and standing in the community, mental distress, humiliation, embarrassment, as well as economic losses: loss of tuition and cost of living, loss of wages, loss of benefits, loss of tenure, and loss of experience.

PRAYER FOR RELIEF

WHEREFORE, based upon the above Complaint, Plaintiffs prays for the following:

1. A jury trial on all issues triable by jury.
2. A judgment in favor of Plaintiffs against the Defendants and each of them jointly and severally awarding such damages in excess of \$50,000.00 (the specific amount to be determined at trial).


3. A judgment in favor of Plaintiffs against the Defendants and each of them jointly and severally awarding such special damages in excess of \$50,000.00 (the specific amount to be determined at trial).
4. A judgment holding Defendants jointly and severally liable for Plaintiffs' judgment.
5. That Plaintiffs be awarded reasonable attorneys' fees, costs and disbursements.
6. That Plaintiffs be awarded such other and further relief as the Court may deem just and proper.

SAND LAW, LLC

Dated: October 09, 2015

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Dated: October 9, 2015

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ATTORNEYS FOR PLAINTIFFS

ACKNOWLEDGMENT

The undersigned hereby acknowledges that costs, disbursements, and reasonable attorney and witness fees may be awarded pursuant to Minn. Stat. §549.211 to the party against whom the allegations in this pleading are asserted.

Dated: October 09, 2015

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