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10 **UNITED STATES DISTRICT COURT**
 11 **NORTHERN DISTRICT OF CALIFORNIA**
 12 **SAN JOSE DIVISION**

13 JAQUELYN KLEINER, on behalf of herself and
 14 all others similarly situated,
 15 Plaintiff,
 16 v.
 17 DIGITAL MEDIA ACADEMY CORP. d/b/a
 18 DIGITAL MEDIA ACADEMY LP,
 19 Defendant.

20 Case No.
 21 **CLASS ACTION COMPLAINT**
 22 **JURY TRIAL DEMANDED**

23 Plaintiff Jaquelyn Kleiner, individually and on behalf of all others similarly situated, by and
 24 through counsel, brings this action against Defendant Digital Media Academy Corp. d/b/a Digital
 25 Media Academy LP (“DMA”). Plaintiff’s allegations herein are based upon personal knowledge and
 26 belief as to her own acts, upon the investigation of her counsel, and upon information and belief as to
 27 all other matters.

28 **INTRODUCTION**

1. Plaintiff brings this action on behalf of herself and a class of similarly situated persons
 who paid tuition and fees for their children to attend day and overnight camps owned and operated by
 DMA during the summer of 2020.

2. Due to the COVID-19 pandemic, however, DMA notified parents during approximately
 April and May 2020, on a rolling basis depending on individual camp locations, that it would not be
 offering its summer camps at most of its 11 locations in 2020.

1 **FACTUAL ALLEGATIONS.**

2 ***DMA's Summer Camps***

3 21. DMA touts its summer camps as “the best place for students to get their start as
4 designers, developers, programmers, engineers, animators, musicians, filmmakers, and creators.”¹

5 22. During 2020, DMA offered the ability to choose day camps located at 11 different
6 colleges and universities spread across California, Illinois, Massachusetts, New York, North Carolina,
7 Texas, Washington, and Washington, D.C., as well as two Canadian provinces.

8 23. Depending on the duration and location selected as well as individual options and
9 courses, tuition for the camps began at approximately \$1,000 per week per child.

10 ***Summer 2020 Camp Cancellation***

11 24. In approximately April and May 2020, as the impact of the COVID-19 pandemic was
12 recognized, DMA notified parents, on a rolling basis depending on individual camp locations, that it
13 would not be offering its summer camps at most of its 11 locations in 2020.

14 25. Plaintiff and other Class members have contacted DMA for refunds, but DMA has
15 denied their requests.

16 26. Instead, on May 1, 2020, DMA posted on its website that: “Despite the fact that terms
17 and conditions state that in case of acts of god or a health pandemic there will be no refund we have
18 decided to provide full credit for summer 2021 for the entirety of a customer’s 2020 purchase.”²

19 27. As of June 25, 2020, however, DMA has continued to make one of its Canadian camps
20 available along with refunds in the event of cancellation, informing parents that: “We are providing
21 peace of mind for you and your family so that if you purchase Tech Camp on or after June 1, 2020, and
22 DMA or UBC cancels the camp due to COVID-19 you will receive a 100% refund.”³

23 28. Plaintiff and the Class members, however, seek full refunds of tuition and fees paid to
24 DMA for camps it has not, or will not, hold.

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27 ¹ <https://www.digitalmediaacademy.org/> (last visited June 8, 2020).

28 ² <https://www.digitalmediaacademy.org/terms-and-conditions/> (last visited June 8, 2020).

³ <https://www.digitalmediaacademy.org/canada-tech-camps/university-of-british-columbia/> (last visited June 25, 2020).

1 ***DMA Camp Terms and Conditions***

2 29. Upon information and belief, on or about August 13, 2018, DMA published, *inter alia*,
3 the following terms and conditions on its website to which parents were required to agree:

4 If DMA cancels a Program, Participants may be enrolled in another Program. If one is
5 not available at the same Program location at a time that is convenient for Participant,
a refund will be issued for all monies paid to DMA for the cancelled Program.⁴

6 30. On or about June 15, 2020, DMA changed its terms and conditions to include, *inter alia*,
7 the following:

8 Digital Media Academy may be forced to cancel classes due to an Act of God and in
9 this case, it is not liable for any loss as a result of canceled classes. Digital Media
10 Academy does not refund students for canceled classes due to Acts of God. Acts of
11 God include but is not limited to earthquake, flood, war, government action, labor
strike, severe weather conditions, flu pandemic, government legislation, civil disorder,
terrorist acts or other acts of god.⁵

12 31. The terms and conditions in effect at the time of Plaintiff’s and the Class Member’s
13 purchases obligates DMA to provide refunds for all monies paid to DMA. DMA’s failure to do so
14 constitutes a breach of its contract with Plaintiff and the Class Members.

15 **CLASS ALLEGATIONS**

16 32. Plaintiff brings this action individually and on behalf of a nationwide class pursuant to
17 Federal Rules of Civil Procedure 23(a), 23(b)(2), and/or 23(b)(3), defined as follows:

18 **Nationwide Class**

19 All persons who paid tuition to DMA for its camps in 2020.

20 33. In the alternative, Plaintiff brings this class action on behalf of the following State Class:

21 **Washington Class**

22 All Washington residents who paid tuition to DMA for its camps in 2020.

23 34. Together, the National Class and the Washington Class shall be collectively referred to
24 herein as the “Class.”

25 35. Excluded from the Class are: (a) Defendant; (b) Defendant’s affiliates, agents,
26 employees, officers and directors; and (c) the judge assigned to this matter, the judge’s staff, and any

27 _____
28 ⁴ <https://web.archive.org/web/20180813100342/https://www.digitalmediaacademy.org/terms-and-conditions/> (last visited June 26, 2020).

⁵ <https://www.digitalmediaacademy.org/terms-and-conditions/> (last visited June 26, 2020).

1 member of the judge's immediate family. Plaintiff reserves the right to modify, change, or expand the
2 various class definitions set forth above based on discovery and further investigation

3 36. **Numerosity:** Upon information and belief, the Class is so numerous that joinder of all
4 members is impracticable. While the exact number and identity of individual members of the Class are
5 unknown at this time, such information being in the sole possession of Defendant and obtainable by
6 Plaintiff only through the discovery process, Plaintiff believes, and on that basis alleges, that the Class
7 consists of hundreds or thousands of people. The precise number of Class members can be determined
8 based on DMA's records.

9 37. **Commonality:** Common questions of law and fact exist as to all members of each Class.
10 These questions predominate over questions affecting individual Class members. These common legal
11 and factual questions include, but are not limited to:

- 12 a. Whether DMA should be required to provide refunds for 2020 camp tuition and fees;
- 13 b. Whether the contract between DMA and Plaintiff and the Class was breached by DMA's
14 decision to cancel its camps and failure to issue refunds; and
- 15 c. Whether DMA was unjustly enriched by its conduct.

16 38. **Typicality:** Plaintiff has the same interest in this matter as all Class members, and
17 Plaintiff's claims arise out of the same set of facts and conduct as the claims of all Class members.
18 Plaintiff's and Class members' claims all arise out of DMA's uniform conduct and statements.

19 39. **Adequacy:** Plaintiff has no interest that conflicts with the interests of the Class, and is
20 committed to pursuing this action vigorously. Plaintiff has retained counsel competent and experienced
21 in complex consumer class action litigation. Accordingly, Plaintiff and her counsel will fairly and
22 adequately protect the interests of the Class.

23 40. **Superiority:** A class action is superior to all other available means of fair and efficient
24 adjudication of the claims of Plaintiff and members of the Class. The injury suffered by each individual
25 Class member is relatively small compared to the burden and expense of individual prosecution of the
26 complex and extensive litigation necessitated by DMA's conduct. It would be virtually impossible for
27 members of the Class individually to effectively redress the wrongs done to them. Even if the members
28 of the Class could afford such individual litigation, the court system could not. Individualized litigation

1 increases the delay and expense to all parties, and to the court system, presented by the complex legal
2 and factual issues of this case. Individualized rulings and judgments could result in inconsistent relief
3 for similarly-situated individuals. By contrast, the class action device presents far fewer management
4 difficulties, and provides the benefits of single adjudication, economy of scale, and comprehensive
5 supervision by a single court.

6 **VIOLATIONS ALLEGED**

7 **COUNT I**

8 **CONVERSION**

9 **(On Behalf of the Nationwide Class or, in the alternative, the Washington Class)**

10 41. Plaintiff incorporates by reference each of the allegations contained in the foregoing
11 paragraphs as if fully set forth herein.

12 42. Plaintiff and the Class are entitled to a refund of monies paid in exchange for 2020 DMA
13 camp tuition and fees because the DMA camps have been cancelled.

14 43. Plaintiff and the Class have demanded that DMA return their property.

15 44. DMA has refused to issue refunds to Plaintiff and the Class, and thus has, unlawfully
16 and without authorization, assumed and exercised dominion and control over that property to the
17 exclusion of, or inconsistent with, the rights of Plaintiff and the Class.

18 45. DMA's conversion has damaged Plaintiff and the Class in the amount that they paid for
19 2020 DMA camp tuition and fees.

20 46. Plaintiff and the Class are entitled to recover the amount each paid to DMA for their
21 2020 DMA camp tuition and fees, as well as attorneys' fees, costs and interest.

22 **COUNT II**

23 **BREACH OF CONTRACT**

24 **(On Behalf of the Nationwide Class or, in the alternative, the Washington Class)**

25 47. Plaintiff incorporates by reference each of the allegations contained in the foregoing
26 paragraphs as if fully set forth herein.

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