

**IN THE UNITED STATES DISTRICT COURT  
FOR THE EASTERN DISTRICT OF PENNSYLVANIA**

<b>SPEAR, et al.</b>	:	<b>CIVIL ACTION</b>
	:	
<b>v.</b>	:	
	:	
<b>FENKELL, et al.</b>	:	<b>NO. 13-2391</b>

**ORDER**

On this 19th day of August, 2015, after careful review of the First Amended Cross-claims of Student Loan Management and Research Services (SLMRS) (Doc. No. 252), the Fenkell Parties' motion to dismiss (Doc. No. 267), and SLMRS' reply (Doc. No. 280) it is

**ORDERED**

that the motion to dismiss is GRANTED in part, as follows:

1. SLMRS' first cross-claim (Doc. No. 252) is dismissed WITHOUT prejudice. SLMRS shall have 14 days from the date of this order to amend;
2. SLMRS' second cross-claim (Doc. No. 252) with respect to the aiding and abetting claim is dismissed WITHOUT prejudice. SLMRS shall have 14 days from the date of this order to amend;
3. SLMRS' third cross-claim (Doc. No. 252) is dismissed WITHOUT prejudice. SLMRS shall have 14 days from the date of this order to amend;
4. SLMRS' fourth cross-claim (Doc. No. 252) insofar as it seeks equitable indemnification under ERISA, federal common-law, or Pennsylvania law, is dismissed WITH prejudice; and
5. SLMRS' fourth cross-claim (Doc. No. 252) insofar as the cross-claim seeks

contribution arising out of the Fourth and Fifth Claims for Relief in the First Amended Complaint, is dismissed WITH prejudice.

**FURTHERED ORDERED**

That the motion to dismiss is denied in part, as to

6. SLMRS' second cross-claim (Doc. No. 252) with respect to the conspiracy claim;  
and
7. SLMRS' fourth cross-claim (Doc. No. 252) insofar as the cross-claim seeks contribution arising out of the Eleventh and Thirteenth Claims for Relief in the First Amended Complaint (alleging accomplice and co-conspirator liability under Pennsylvania law).

*s/Richard A. Lloret*  
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HON. RICHARD A. LLORET  
U.S. Magistrate Judge