

CIVIL ACTION COVER SHEET

DOCKET NUMBER

21-2546D

Trial Court of Massachusetts
The Superior Court



COUNTY Suffolk Superior Court (Boston)

Plaintiff Commonwealth of Massachusetts

Defendant: Empire Education Corporation d/b/a Mildred Elley School

ADDRESS: Attorney General's Office

ADDRESS: 1 Park Place, 3rd Floor

One Ashburton Place, 18th Floor

Albany, New York 12205

Boston, Massachusetts 02108

Plaintiff Attorney: Lilia DuBois

Defendant Attorney: Gerald Ritzert

ADDRESS: Attorney General's Office

ADDRESS: Gombos Leyton P.C.

One Ashburton Place, 18th Floor

11350 Random Hills Road, Suite 400

Boston, MA 02108

Fairfax, Virginia 22030

BBO: 688848

BBO:

TYPE OF ACTION AND TRACK DESIGNATION (see instructions section below)

CODE NO. E99

TYPE OF ACTION (specify)
Other Administrative Action

TRACK X

HAS A JURY CLAIM BEEN MADE?

YES NO

*If "Other" please describe:

Is there a claim under G.L. c. 93A?

YES NO

Is there a class action under Mass. R. Civ. P. 23?

YES NO

STATEMENT OF DAMAGES PURSUANT TO G.L. c. 212, § 3A

The following is a full, itemized and detailed statement of the facts on which the undersigned plaintiff or plaintiff's counsel relies to determine money damages. For this form, disregard double or treble damage claims; indicate single damages only.

TORT CLAIMS

A. Documented medical expenses to date

- Total hospital expenses
- Total doctor expenses
- Total chiropractic expenses
- Total physical therapy expenses
- Total other expenses (describe below)

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SUPERIOR COURT CIVIL
MICHAEL JOSEPH DONOVAN
MAGISTRATE

Subtotal (1-5): \$0.00

B. Documented lost wages and compensation to date

C. Documented property damages to date

D. Reasonably anticipated future medical and hospital expenses

E. Reasonably anticipated lost wages

F. Other documented items of damages (describe below)

TOTAL (A-F): \$0.00

G. Briefly describe plaintiff's injury, including the nature and extent of injury:

CONTRACT CLAIMS

This action includes a claim involving collection of a debt incurred pursuant to a revolving credit agreement. Mass. R. Civ. P. 8.1(a).

Item #	Detailed Description of Each Claim	Amount
1.		
Total		

Signature of Attorney/Unrepresented Plaintiff: X

Date: 11/5/21

RELATED ACTIONS: Please provide the case number, case name, and county of any related actions pending in the Superior Court.

CERTIFICATION PURSUANT TO SJC RULE 1:18

I hereby certify that I have complied with requirements of Rule 5 of the Supreme Judicial Court Uniform Rules on Dispute Resolution (SJC Rule 1:18) requiring that I provide my clients with information about court-connected dispute resolution services and discuss with them the advantages and disadvantages of the various methods of dispute resolution.

Signature of Attorney/Unrepresented Plaintiff: X

Date: 11/5/21

CIVIL ACTION COVER SHEET INSTRUCTIONS

SELECT CATEGORY THAT BEST DESCRIBES YOUR CASE

AC Actions Involving the State/Municipality *

- AA1 Contract Action involving Commonwealth, Municipality, MBTA, etc. (A)
- AB1 Tortious Action involving Commonwealth, Municipality, MBTA, etc. (A)
- AC1 Real Property Action involving Commonwealth, Municipality, MBTA etc. (A)
- AD1 Equity Action involving Commonwealth, Municipality, MBTA, etc. (A)
- AE1 Administrative Action involving Commonwealth, Municipality, MBTA, etc. (A)

CN Contract/Business Cases

- A01 Services, Labor, and Materials (F)
- A02 Goods Sold and Delivered (F)
- A03 Commercial Paper (F)
- A04 Employment Contract (F)
- A05 Consumer Revolving Credit - M.R.C.P. 8.1 (F)
- A06 Insurance Contract (F)
- A08 Sale or Lease of Real Estate (F)
- A12 Construction Dispute (A)
- A14 Interpleader (F)
- BA1 Governance, Conduct, Internal Affairs of Entities (A)
- BA3 Liability of Shareholders, Directors, Officers, Partners, etc. (A)
- BB1 Shareholder Derivative (A)
- BB2 Securities Transactions (A)
- BC1 Mergers, Consolidations, Sales of Assets, Issuance of Debt, Equity, etc. (A)
- BD1 Intellectual Property (A)
- BD2 Proprietary Information or Trade Secrets (A)
- BG1 Financial Institutions/Funds (A)
- BH1 Violation of Antitrust or Trade Regulation Laws (A)
- A99 Other Contract/Business Action - Specify (F)

* Choose this case type if ANY party is the Commonwealth, a municipality, the MBTA, or any other governmental entity UNLESS your case is a case type listed under Administrative Civil Actions (AA).

† Choose this case type if ANY party is an incarcerated party, UNLESS your case is a case type listed under Administrative Civil Actions (AA) or is a Prisoner Habeas Corpus case (E97).

ER Equitable Remedies

- D01 Specific Performance of a Contract (A)
- D02 Reach and Apply (F)
- D03 Injunction (F)
- D04 Reform/ Cancel Instrument (F)
- D05 Equitable Replevin (F)
- D06 Contribution or Indemnification (F)
- D07 Imposition of a Trust (A)
- D08 Minority Shareholder's Suit (A)
- D09 Interference in Contractual Relationship (F)
- D10 Accounting (A)
- D11 Enforcement of Restrictive Covenant (F)
- D12 Dissolution of a Partnership (F)
- D13 Declaratory Judgment, G.L. c. 231A (A)
- D14 Dissolution of a Corporation (F)
- D99 Other Equity Action (F)

PA Civil Actions Involving Incarcerated Party †

- PA1 Contract Action involving an Incarcerated Party (A)
- PB1 Tortious Action involving an Incarcerated Party (A)
- PC1 Real Property Action involving an Incarcerated Party (F)
- PD1 Equity Action involving an Incarcerated Party (F)
- PE1 Administrative Action involving an Incarcerated Party (F)

TR Torts

- B03 Motor Vehicle Negligence - Personal Injury/Property Damage (F)
- B04 Other Negligence - Personal Injury/Property Damage (F)
- B05 Products Liability (A)
- B06 Malpractice - Medical (A)
- B07 Malpractice - Other (A)
- B08 Wrongful Death - Non-medical (A)
- B15 Defamation (A)
- B19 Asbestos (A)
- B20 Personal Injury - Slip & Fall (F)
- B21 Environmental (F)
- B22 Employment Discrimination (F)
- BE1 Fraud, Business Torts, etc. (A)
- B99 Other Tortious Action (F)

RP Summary Process (Real Property)

- S01 Summary Process - Residential (X)
- S02 Summary Process - Commercial/ Non-residential (F)

RP Real Property

- C01 Land Taking (F)
- C02 Zoning Appeal, G.L. c. 40A (F)
- C03 Dispute Concerning Title (F)
- C04 Foreclosure of a Mortgage (X)
- C05 Condominium Lien & Charges (X)
- C99 Other Real Property Action (F)

MC Miscellaneous Civil Actions

- E18 Foreign Discovery Proceeding (X)
- E97 Prisoner Habeas Corpus (X)
- E22 Lottery Assignment, G.L. c. 10, § 28 (X)

AB Abuse/Harassment Prevention

- E15 Abuse Prevention Petition, G.L. c. 209A (X)
- E21 Protection from Harassment, G.L. c. 258E(X)

AA Administrative Civil Actions

- E02 Appeal from Administrative Agency, G.L. c. 30A (X)
- E03 Certiorari Action, G.L. c. 249, § 4 (X)
- E05 Confirmation of Arbitration Awards (X)
- E06 Mass Antitrust Act, G.L. c. 93, § 9 (A)
- E07 Mass Antitrust Act, G.L. c. 93, § 8 (X)
- E08 Appointment of a Receiver (X)
- E09 Construction Surety Bond, G.L. c. 149, §§ 29, 29A (A)
- E10 Summary Process Appeal (X)
- E11 Worker's Compensation (X)
- E16 Auto Surcharge Appeal (X)
- E17 Civil Rights Act, G.L. c.12, § 11H (A)
- E24 Appeal from District Court Commitment, G.L. c.123, § 9(b) (X)
- E25 Pleural Registry (Asbestos cases) (X)
- E94 Forfeiture, G.L. c. 265, § 56 (X)
- E95 Forfeiture, G.L. c. 94C, § 47 (F)
- E99 Other Administrative Action (X)
- Z01 Medical Malpractice - Tribunal only, G.L. c. 231, § 60B (F)
- Z02 Appeal Bond Denial (X)

SO Sex Offender Review

- E12 SDP Commitment, G.L. c. 123A, § 12 (X)
- E14 SDP Petition, G.L. c. 123A, § 9(b) (X)

RC Restricted Civil Actions

- E19 Sex Offender Registry, G.L. c. 6, § 178M (X)
- E27 Minor Seeking Consent, G.L. c.112, § 12S(X)

TRANSFER YOUR SELECTION TO THE FACE SHEET

EXAMPLE:

CODE NO.

TYPE OF ACTION (specify)

TRACK

HAS A JURY CLAIM BEEN MADE?

B03

Motor Vehicle Negligence-Personal Injury

F

YES

NO

STATEMENT OF DAMAGES PURSUANT TO G.L. c. 212, § 3A

DUTY OF THE PLAINTIFF - The plaintiff shall set forth, on the face of the civil action cover sheet (or attach additional sheets as necessary), a statement specifying the facts on which the plaintiff relies to determine money damages. A copy of such civil action cover sheet, including the statement as to the damages, shall be served with the complaint. A clerk-magistrate shall not accept for filing a complaint, except as otherwise provided by law, unless it is accompanied by such a statement signed by the attorney or self-represented litigant.

DUTY OF THE DEFENDANT - If the defendant believes that the statement of damages filed by the plaintiff is inadequate, the defendant may file with his/her answer a statement specifying the potential damages which may result if the plaintiff prevails.

**A CIVIL COVER SHEET MUST BE FILED WITH EACH COMPLAINT.
FAILURE TO COMPLETE THIS COVER SHEET THOROUGHLY AND ACCURATELY
MAY RESULT IN DISMISSAL OF THIS ACTION.**

COMMONWEALTH OF MASSACHUSETTS

SUFFOLK, SS.

SUPERIOR COURT
CIVIL ACTION NO. 21-2546D

IN THE MATTER OF MILDRED)
ELLEY SCHOOL)
_____)

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SUPERIOR COURT-CIVIL
MICHAEL JOSEPH DONOVAN
CLERK/MAGISTRATE

**ASSURANCE OF DISCONTINUANCE
PURSUANT TO M.G.L. CHAPTER 93A, § 5**

I. INTRODUCTION

1. The Commonwealth of Massachusetts (“Commonwealth”), through the Office of Attorney General Maura Healey (“AGO”), and Empire Education Corporation d/b/a Mildred Elley School (“Mildred Elley”) enter into this Assurance of Discontinuance (“AOD”) pursuant to M.G.L. c. 93A, § 5.

2. Mildred Elley is a private for-profit postsecondary educational institution, which operates a campus in Massachusetts. Mildred Elley’s Massachusetts campus, which is located at 100 West St., Pittsfield, Massachusetts 01201 (the “School”), offers certificate programs in Business Technologies, Clinical Medical Assisting, Cosmetology, Massage Therapy, Medical Office Assisting, and Practical Nursing.¹

3. The AGO promulgated 940 C.M.R. 31.00: For-profit and Occupational Schools Regulations (the “Regulations”) with the intent to prevent unfair practices in the recruiting and enrollment of students at for-profit schools. Among other things, the Regulations: (1) require that for-profit schools make disclosures about certain school outcomes, including disclosures of placement rates, to consumers and prospective students, clearly and conspicuously, at least 72 hours prior to entering into an enrollment agreement with a consumer or a prospective student

¹ As used herein, “School” refers to Mildred Elley’s Massachusetts campus.

and affirm its prospective students' receipt of the 940 C.M.R. 31.05 disclosures by means of student signatures and (2) prohibit for-profit schools from initiating communication with a prospective student, prior to enrollment, via telephone (either voice or data technology), in person, via text messaging, or by recorded audio message, in excess of two such communications in each seven-day period. *See* 940 C.M.R. 31.05 & 31.06(9).

4. Pursuant to M.G.L. c. 93A, § 6, the AGO has conducted an investigation of Mildred Elley's recruitment and educational practices in Massachusetts and compliance with 940 C.M.R. 31.00 *et seq.* (the "Investigation"). The Commonwealth acknowledges that Mildred Elley fully cooperated with the Investigation.

5. Based on the Investigation, the AGO alleges that from March 2016 through March 2017, Mildred Elley's policies at the School were, in some instances, not in compliance with 940 C.M.R. 31.05 and 940 C.M.R. 31.06(9).

6. Additionally, based on the Investigation, the AGO alleges that during January 1, 2015 to March 2016, prior to the period referenced above, Mildred Elley reported placement rates for its Clinical Medical Assistant and Paralegal programs above 70%, while calculations using the AGO's methodology pursuant to 940 C.M.R. 31.00, *et seq.* resulted in placement rates that were materially lower.

7. Mildred Elley neither admits nor denies the AGO's allegations as contained in the foregoing paragraphs. The AOD does not constitute an admission of wrongdoing by Mildred Elley of any fact alleged by the AGO or any alleged non-compliance with any state or federal law, rule or regulation.

8. The parties are nevertheless desirous of resolving these matters and accordingly, the AGO and Mildred Elley both voluntarily enter into this AOD.

9. This AOD is made without any trial or adjudication of any issue of fact or law.

II. TERMS OF THIS ASSURANCE

10. Mildred Elley agrees to pay to the AGO the sum of six hundred thousand dollars (\$600,000) which shall be distributed by the AGO to or on behalf of students of the School at the sole discretion of the AGO. Mildred Elley shall make this payment within thirty (30) days of the entry of this AOD by check payable to the Office of the Attorney General, delivered by hand or certified mail to Gia Kim, Insurance & Financial Services Division, Office of the Attorney General, One Ashburton Place, 18th Floor, Boston, MA 02108, or pursuant to an alternative payment schedule/method agreed to by Mildred Elley and the AGO.

11. Mildred Elley also agrees to release the obligations of certain School students, as identified by the AGO, to pay \$422,078 that remain outstanding and due to Mildred Elley.

12. In accordance with the terms of this AOD, the School shall fully comply with 940 C.M.R. 31.00 *et seq.*

13. Additionally, Mildred Elley has offered and agreed to provide reasonable cooperation with the AGO during the implementation of this AOD and all reasonably necessary information not subject to applicable privileges sufficient to demonstrate Mildred Elley's compliance with the terms of this AOD, as reasonably requested by the AGO during the implementation of this AOD.

14. The acceptance of this AOD by the AGO does not constitute acceptance or approval by the AGO of any of Mildred Elley's assertions of fact or past practices, and Mildred Elley will make no representation to that effect.

15. The AOD may be modified or supplemented only by a written document signed by both parties.

16. This AOD shall be binding upon Mildred Elley, its officers, directors, subsidiaries, subdivisions, successors, and assigns.

17. This AOD and its provisions shall be effective on the date that a fully executed copy is filed in Suffolk Superior Court.

18. By signing below, the Attorney General releases Mildred Elley, its predecessors, successors, assigns, stockholders, officers, trustees, directors, parents, affiliates, subsidiaries, agents, insurers, and attorneys for Mildred Elley's practices listed in paragraphs 5 and 6 above and agrees that this AOD shall be in lieu of a civil action or proceeding against Mildred Elley under M.G.L. c. 93A, § 4 and 940 C.M.R. 31.00 *et seq.* for acts or practices prior to the filing of this AOD related to the Investigation.

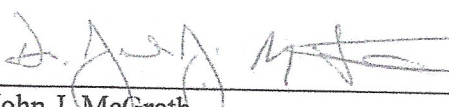
19. Any violation by Mildred Elley of this AOD may be pursued in a civil action or proceeding under M.G.L. c. 93A hereafter commenced by the AGO.


20. Neither this AOD, any portion of this AOD, nor any negotiations, associated representations or agreements connected in any way with this AOD, shall be offered or received in evidence in any proceeding to prove any liability, claim, any wrongdoing, or an admission on the part of Mildred Elley by any individual or entity or any state or federal governmental agency not a party hereto; provided, however, that nothing herein shall prevent this AOD from being used, offered or received in evidence in any proceeding to enforce any or all of its terms.

21. The AGO agrees that all confidential information disclosed to it in the course of the investigation and in connection with this AOD shall be kept confidential by the AGO to the degree provided by M.G.L. c. 93A, §6.

22. By signing below, the signatories represent that they are authorized to sign this document on behalf of their respective parties and the parties agree to comply with their respective undertakings contained in this AOD.

EMPIRE EDUCATION CORPORATION COMMONWEALTH OF MASSACHUSETTS
MAURA HEALY ATTORNEY GENERAL

By: 
Dr. John J. McGrath
Chief Executive Officer & President
1 Park Place, 3rd Floor
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By: 
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Boston, Massachusetts 02108
(617) 963-2239
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Dated: 11/1/2021

Dated: 11/4/21