

UNITED STATES DISTRICT COURT  
NORTHERN DISTRICT OF OHIO  
EASTERN DIVISION

DIGITAL MEDIA SOLUTIONS, LLC	)	CASE NO. 1:19-cv-145
	)	
Plaintiff,	)	
	)	JUDGE DAN AARON POLSTER
	)	
v.	)	MAGISTRATE JUDGE
	)	THOMAS M. PARKER
SOUTH UNIVERSITY OF OHIO, LLC,	)	
<i>et al.</i>	)	
	)	
Defendants.	)	

**FORMER ARGOSY STUDENTS JAYNE KENNEY AND KENDRICK HARRISON’S  
MOTION TO INTERVENE TO PURSUE EXPEDITED DISCOVERY OF STUDENT  
LOAN STIPEND DIVERSION SCHEME**

Former Argosy students Jayne Kenney and Kendrick Harrison move to intervene in this proceeding pursuant to Fed. R. Civ. P. 24(a). Kenney and Harrison are two of the thousands of Argosy students whose student loan stipends—which they rely on for living expenses while attending school full time—were taken from them through defalcations of their student accounts, misrepresentations to the Department of Education, and diversions of their money. As a result, Kenney and Harrison have experienced severe financial distress. Harrison, a disabled military veteran and father to six children, is homeless.

Until now, the interests of Argosy students in recovering their stolen stipends have been represented only by a single intervenor: pro se law student, Marina Awed. The Receiver has produced no information about what happened to the stolen money nor disclosed what he is doing to recover it. Kenney and Harrison seek to intervene, represented by counsel, to demand

information about their stolen stipends that is not being provided by the Receiver. Contemporaneous with this filing, they and Awed are filing a motion for expedited discovery so they can receive the documents and information necessary to determine the whereabouts of their money.

The Receiver does not oppose Kenney and Harrison's intervention.

## **I. Background**

### **a. Background of Intervenors**

Jayne Kenney enrolled at the Illinois Institute of Psychology to earn her Psy.D. degree. Kenney Decl. ¶ 3. (Exh. A). The Institute was one of the schools in the Argosy system, owned by Dream Center Education Holdings ("DCEH"), which was placed in Receivership on January 18, 2019. In March 2019, the school closed. Kenney was on schedule to finish her course work by the Summer of 2020, after which she would have prepared her dissertation and done an internship. *Id.* ¶ 4. She attended school full time. *Id.* ¶ 6.

In order to pay living expenses, Kenney relied on stipends from a school scholarship and the federal government. *Id.* ¶ 6. However, for the semester starting in January 2019, she received none of her stipend funds. *Id.* The Receiver has now admitted that her federal government stipend was stolen—by falsifying her student ledger, misrepresenting to the Department of Education that she had received her stipend, and then diverting the money elsewhere. Dkt. 91. This deprived her of the funds she needs to pay rent and other bills. She has been forced to liquidate retirement funds and other stocks to pay her living expenses. Kenney Declaration ¶ 8. Her mother, near retirement age, has done the same. *Id.*

Kendrick Harrison is a disabled military veteran, and father of six children. Harrison Decl. ¶¶ 3-4 (Exh. B). He was attending Argosy-Online to earn a business degree, in order to provide a

better life for his family. *Id.* ¶ 5. His stipend was also taken. *Id.* ¶ 8. As a result, he was unable to pay rent and his family was evicted. *Id.* ¶ 12. Because he was delinquent on rent, his credit rating has suffered, and he has not been able to secure another lease. *Id.* ¶ 13. His family is now homeless—living temporarily in an extended-stay motel, while they try to find somewhere to live. *Id.* ¶ 12. They will likely have to split their children up among family members. *Id.* ¶ 13

The Receiver has acknowledged that the financial injuries being experienced by Kenney and Harrison are commonplace among Argosy students. Dkt. 55 at 2.

**b. The Receiver’s Delays Investigating the Stipend Diversion**

The Receivership has been in effect since January 18, 2019, the same day, according to the Receiver, that the original defalcations of student accounts occurred. 3/8/19 Tr. at 29 (excerpts at Exh. C). The Receiver claims to be conducting a detailed investigation of the fraud, but no documents or other information from that investigation has been produced in court, or to any party. The Receiver claims to have spoken to two employees who told him “what had been happening,” but he has never told the Court what they said. *Id.* at 29, 44. The Receiver has communicated to counsel for intervenors that he does not see the investigation of the diverted stipends “as *the* critical issue for which precious resources should be diverted at this moment.” Hugh Berkson Letter to Eric Rothschild (March 27, 2019) (Exh. D). He “also question[s] who you think should pay the bill required to engage in the electronic forensic examination you’ve demanded. The Receivership Estate’s limited financial resources are no secret.” *Id.* at 2.

**c. Intervenor’s Participation in This Proceeding**

Intervenor Awed and proposed intervenors Kenney and Harrison seek information from the Receiver about the whereabouts of their stipends—so that they can determine whether they have a means of recovering them. To that end, they have filed a motion for expedited discovery

contemporaneous with the filing of this motion, describing in greater detail the status of the Receiver's discovery and investigation of the stipend diversion. That motion is incorporated herein by reference.

## **II. Discussion**

Kenney and Harrison move to intervene pursuant to Fed. R. Civ. P. 24(a), which provides for intervention of right by anyone who "claims an interest relating to the property or transaction that is the subject of the action, and is so situated that disposing of the action may as a practical matter impair or impede the movant's ability to protect its interest, unless existing parties adequately represent that interest." The Court has granted the motions to intervene of numerous individuals and companies, including Ms. Awed (*See* Non-Document Order relating to Dkt. 88), and a group of students alleging misrepresentations by DCEH and the Illinois Institute of Art. Dkt. 49. For purposes of brevity, Kenney and Harrison incorporate the authorities cited in the motion of intervenors Flagler Master Fund SPC Ltd. and U.S. Bank, National Association (Dkt. 19), which was granted. Dkt. 26.

Kenney and Harrison satisfy the standards for intervention under Rule 24. The requested intervention is timely. The Receiver was appointed a little more than two months ago. The Court has granted interventions to other parties as recently as March 21. *See* Non-Document Order relating to Dkt. 191. Further, as discussed below, Kenney and Harrison are intervening now, to attempt to remedy a situation that has only become evident as a result of court hearings held during the first two weeks of March 2019: the Receiver is not urgently and diligently investigating the diversion of their stipends.

Next, the rights of Argosy students to find out what happened to their stipends is not sufficiently represented in these proceedings. No party represented by counsel has been able to

seek information that would allow Argosy students to find out what happened to their stipends. In the proceedings to date, the Receiver has acknowledged that a fraud has occurred; has referred to documents that demonstrate that fraud; and has acknowledged that certain employees had knowledge of that fraud. However, he has not produced any documents in this proceeding, nor identified the employees; nor disclosed what he learned from them. The barebones information disclosed was not done voluntarily, but only in response to court orders and at hearings requested by other parties. The discovery that Kenney and Harrison seek is most appropriately served by affected students like themselves.

Third, impairment of their interests and the interests of similarly situated students is a real and actual possibility if intervention is not granted. As explained in their Motion for Expedited Discovery and their declarations, intervenors' interests will be impaired if the information relating to the stipend diversion is not promptly surfaced for two reasons. First, they are being harmed right now by the loss of funds, in a way that can't be fully cured by subsequent recovery of damages or discharge of their loans. Second, the Receiver's leisurely investigation reduces the prospect for recovering funds that right now could still be recouped. The Receiver has posited that the stipends were diverted solely to "operating expenses" of DCEH or Argosy, *but there is no evidence that this is so*. Equally likely is that the funds were diverted to the benefit of the (unidentified) perpetrators of the fraud, who could be forced to disgorge the money—if the information necessary to identify them is ever disclosed. If the requested information is produced, the proposed intervenors will be in position to determine their prospects for redress from whomever benefited from the diversion of their stipends.

Fourth, the existing parties will not adequately represent the interests of the intervenors. The Court has constrained non-Argosy students from directly advocating for the disclosure of

information relating to the stipends. That has left only pro-se intervenor Marina Awed to advocate on this issue—she will now be jointly represented by undersigned counsel for the purposes of seeking information about the diverted stipends. Proposed intervenors also have experienced distinct harms that justify their intervention in this proceeding. In particular, proposed intervenor Harrison has experienced the eviction of his large family—a distinctly severe harm that deserves consideration in this proceeding.

As all four of the Sixth Circuit’s elements for mandatory intervention under Rule 24(a) are present here, Kenney and Harrison’s motion to intervene as of right should be granted. In the alternative, the Court should exercise its discretion to grant permissive intervention under Rule 24(b). The motion is timely, and there are common questions of law and fact arising from their being defrauded by entities in Receivership, either before or during the receivership, which require redress.

For all these reasons, there is good cause for allowing Kenney and Harrison to intervene in this proceeding, to advance their interests in recovering the stipends that were taken from them.

Dated: April 5, 2019

Respectfully submitted,

*s/Richard S. Gurbst*

Richard S. Gurbst (Bar # 0017672)

Eleanor M. Hagan (Bar # 0091852)

SQUIRE PATTON BOGGS (US) LLP

4900 Key Tower

127 Public Square

Cleveland, Ohio 44114

Telephone: +1 216 479 8500

E-mail: *richard.gurbst@squirepb.com*

Eric Rothschild

(Admitted Pro Hac Vice)

Alexander S. Elson

(Admitted Pro Hac Vice)  
NATIONAL STUDENT LEGAL DEFENSE NETWORK  
1015 15<sup>th</sup> Street NW, Suite 600  
Washington, DC 20005  
Telephone: +1 202 734 7495  
E-mail: *alex@nsldn.org*  
*eric@nsldn.org*

Counsel for Intervenor,  
Marina Awed and Proposed Intervenors Jayne  
Kenney and Kendrick Harrison

**CERTIFICATE OF SERVICE**

It is hereby certified that on the 5th day of April, 2019, the foregoing Motion was electronically filed through the Court's CM/ECF system, which caused the parties or counsel to be served by electronic means. The parties may access this filing through the Court's ECF system.

*s/Richard S. Gurbst*

Richard S. Gurbst

One of the Attorneys for Intervenors



# **EXHIBIT A**

UNITED STATES DISTRICT COURT  
NORTHERN DISTRICT OF OHIO  
EASTERN DIVISION

DIGITAL MEDIA SOLUTIONS, LLC	)	CASE NO. 1:19-cv-145
	)	
Plaintiff,	)	
	)	JUDGE DAN AARON POLSTER
v.	)	MAGISTRATE JUDGE
	)	THOMAS M. PARKER
SOUTH UNIVERSITY OF OHIO, LLC,	)	
<i>et al.</i>	)	
	)	
Defendants.	)	

**DECLARATION OF JAYNE KENNEY IN SUPPORT OF MOTION FOR EXPEDITED  
DISCOVERY OF STUDENT LOAN STIPEND DIVERSION SCHEME**

I, Jayne Kenney, pursuant to 28 U.S.C. § 1746, hereby declare:

1. I am an intervening party in the above-captioned case.
2. I have retained the National Student Legal Defense Network to represent me in seeking discovery of the diversion of my student loan stipends.
3. I was enrolled in the Psy.D. program at Illinois School of Professional Psychology, an Argosy school, until it closed in March 2019. Before the school closed, I expected to finish my coursework in the summer of 2020, and then would have had to write my dissertation, and complete an internship
4. I intend to transfer to another Psy.D. program to complete my degree.
5. In order to pay for my education and my living expenses while attending school, I borrowed money from the federal government.

6. My financial aid agreement with the federal government provides for loans in excess of what is required to pay my tuition balance and is intended to be disbursed to me as a stipend, to pay for living expenses while I attend school full-time. I should have received a stipend in the amount of approximately \$2300 from the federal government for the semester beginning January 2019. My stipend has not been disbursed. I also should have received \$2700 additional stipend from the university, from a scholarship. I also have not received that stipend.

7. The Receiver has explained in court that Argosy or its parent DCEH drew down money from the Department of Education, by certifying that my stipend and the stipends of other Argosy students had been paid, when they, in fact, had not been. The Receiver has not disclosed where or to whom that money went.

8. As a result of not receiving my stipend, I have had to take extraordinary measures to pay for my living expenses, including my rent. I have had to liquidate retirement savings and other stocks; my mother has done the same, to help me. My mother is close to retirement age, so her aid to me affects her own financial well-being.

9. I have already informed my landlord that I may be late paying my rent next month.

10. I am incurring substantial credit card debt to pay life expenses. One of my cards was closed because I am late on payments, negatively affecting my credit rating.

I declare under penalty of perjury that the foregoing is true and correct.

Executed on March 27, 2019

  
JAYNE KENNEY

# **EXHIBIT B**

UNITED STATES DISTRICT COURT  
NORTHERN DISTRICT OF OHIO  
EASTERN DIVISION

DIGITAL MEDIA SOLUTIONS, LLC	)	CASE NO. 1:19-cv-145
	)	
Plaintiff,	)	
	)	JUDGE DAN AARON POLSTER
	)	
v.	)	MAGISTRATE JUDGE
	)	THOMAS M. PARKER
SOUTH UNIVERSITY OF OHIO, LLC,	)	
<i>et al.</i>	)	
	)	
Defendants.	)	

**DECLARATION OF KENDRICK HARRISON IN SUPPORT OF MOTION FOR  
EXPEDITED DISCOVERY OF STUDENT LOAN STIPEND DIVERSION SCHEME**

I, Kendrick Harrison, pursuant to 28 U.S.C. § 1746, hereby declare:

1. I have filed a motion to intervene in the above-captioned case.
2. I have retained the National Student Legal Defense Network to represent me in seeking discovery of the diversion of my student loan stipends.
3. I am a veteran of the Iraq War, and I am disabled as a result of my service.
4. I am married, with six children, all under the age of 18.
5. I have been enrolled in a business degree program at Argosy University-Online since 2016 until it closed in March 2019. Before the school closed, I expected to graduate in September 2019. I was a full-time student at the school. I pursued my business degree in order to provide a better life for my family.

6. I am trying to transfer to another school to finish my degree. Based on my efforts so far, it seems unlikely that I will be able to transfer all of my credits.

7. In order to pay for my education and my living expenses while I was attending school, I borrowed money from the federal government.

8. My financial aid agreement with the federal government provides for loans in excess of what is required to pay my tuition balance and is intended to be disbursed to me as a stipend, to pay for living expenses while I attend school full-time. I should have received a stipend in the amount \$6000.00 for the semester beginning January 2019. My stipend has not been disbursed.

9. On February 14, 2019, I wrote to the Receiver to request a release of my stipend funds. I informed the Receiver that my landlord and creditors were threatening legal action as a result of this situation. Exh. 1.

10. The Receiver responded that same day that “the funds were simply not there,” but “we are working on it around the clock and are hoping to have it solved as quick as humanly possible.” Exh. 2.

11. The Receiver has explained in court that Argosy or its parent DCEH drew down money from the Department of Education, by certifying that my stipend and the stipends of other Argosy students had been paid, when they, in fact, had not been. The Receiver has not disclosed where or to whom that money went.

12. Until Sunday, March 24, my family lived in a 4 bed room 3 bath room home in Las Vegas, Nevada. As a result of not receiving my stipend, I was not able to pay rent for my apartment, and the landlord placed us in eviction proceedings. We were required to vacate the apartment on March 24. Presently, my family is living in an extended-stay motel.

13. The delinquencies on our rent payments has damaged our credit rating. As a result, we have had difficulty renting another apartment or home. If we cannot find another place to live soon, we will have to place our children with different family members. This will disrupt their educations and separate them from us and each other.

14. I am incurring substantial credit card debt to pay life expenses.

I declare under penalty of perjury that the foregoing is true and correct.

Executed on April 4, 2019

*Kendrick Harrison*  
KENDRICK HARRISON

# **EXHIBIT 1**



**Subject:** Fwd: Argosy University setting students up for failure !!!  
**Date:** Friday, March 29, 2019 at 9:35:49 AM Eastern Daylight Time  
**From:** Kendrick harrison  
**To:** Eric Rothschild

----- Forwarded message -----

**From:** Kendrick harrison <[harrisonkj34@gmail.com](mailto:harrisonkj34@gmail.com)>  
**Date:** Thu, Feb 14, 2019, 12:11 PM  
**Subject:** Argosy University setting students up for failure !!!  
**To:** <[info@dottoreco.com](mailto:info@dottoreco.com)>, <[5newsdesk@fox5vegas.com](mailto:5newsdesk@fox5vegas.com)>

Hello

I am writing this e-mail to inform you that for several weeks argosy university has been in violation of their Financial Aid Stipend Return Policy, as well as the terms that the university and I agreed upon. The policy states: *All student Title IV (federal) financial aid credit balances, if one is created for the payment period in question, will be issued as a stipend to the student no later than fourteen (14) calendar days:*

I haven't gotten a stipend since December and I have been humbly requesting a release of my funds to no avail. We are going in to march and Argosy has thousands of dollars that are owed to me. My family and I financially crippled by the "Government Shutdown" can't hold out much longer. My landlord and creditors are threatening legal action as a direct result of this situation. I believe it to be a disservice for students to have to worry more about their finances than earning their degree. As a student this has caused me a great deal of anxiety and undue stress. This situation has severely impacted my course work and ability to produce quality and meaningful assignments. In furtherance I am requesting additional time and leniency from my instructors so that I may salvage my grades. Unfortunately, I feel I am being left no options but to escalate this matter.

Thank You,

Kendrick Harrison

(725)502-0016

# **EXHIBIT 2**

Tuesday, April 2, 2019 at 5:34:28 PM Eastern Daylight Time

**Subject:** Fwd: Dream Center Receivership  
**Date:** Thursday, March 28, 2019 at 7:24:37 PM Eastern Daylight Time  
**From:** Kendrick harrison  
**To:** Eric Rothschild  
**Attachments:** image003.png, image003.png

----- Forwarded message -----

**From:** Krista Kotalik <[krista@dottoreco.com](mailto:krista@dottoreco.com)>  
**Date:** Thu, Feb 14, 2019, 4:48 PM  
**Subject:** Dream Center Receivership  
**To:** [harrisonkj34@gmail.com](mailto:harrisonkj34@gmail.com) <[harrisonkj34@gmail.com](mailto:harrisonkj34@gmail.com)>

Hi Kendrick,

Thank you for your email regarding the receivership. I certainly understand your frustration and how horrible this situation has been for you and your family and I want to assure you that we are doing everything in our power to right the wrongs that have been happening and move forward in a positive direction. I wish that I could escalate your funds for you and I'm so sorry but when we were appointed in the Federal Court in this case, the funds were simply not there. I wish I had a better answer for you but right now we are working around the clock to recover the funds and/or a way to generate new funds so that we can get these stipends paid as soon as humanly possible. If you would like to read more about the issue, there is a Receiver Order and a letter that we sent to the Department of Education regarding the funds on our website at [www.dottoreco.com](http://www.dottoreco.com).

As soon as we have the money I will be sending out an email to let everyone know that we have and it and when it will be distributed. Unfortunately right now we don't have a timeline as we are dependent on other people, but I assure you that we are working on it around the clock and are hoping to have it solved as quick as humanly possible. Again, I will update you as soon as that happens.

Krista Kotalik



2344 Canal Road

Cleveland, Ohio 44113

216-771-0727

# **EXHIBIT C**

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IN THE DISTRICT COURT OF THE UNITED STATES  
FOR THE NORTHERN DISTRICT OF OHIO  
EASTERN DIVISION

DIGITAL MEDIA SOLUTIONS, )  
LLC, )  
 ) Magistrate Parker  
Plaintiff, ) Cleveland, Ohio  
 )  
vs. ) Civil Action  
 ) Number 1:19CV0145  
SOUTH UNIVERSITY OF OHIO, )  
LLC, et al., )  
Defendants.

-----  
TRANSCRIPT OF PROCEEDINGS HAD BEFORE  
THE HONORABLE THOMAS M. PARKER  
MAGISTRATE JUDGE OF SAID COURT,  
ON FRIDAY, MARCH 8, 2019  
-----

Official Court Reporter: Shirle M. Perkins, RDR, CRR  
U.S. District Court  
801 West Superior, #7-189  
Cleveland, OH 44113-1829  
(216) 357-7106

Proceedings recorded by mechanical stenography; transcript  
produced by computer-aided transcription.

1 the Department of Education, whether those were funds that  
2 were allocated to specific students and should be paid out.

3 So, Ms. Whitmer, what light can you shed based on the  
4 further work that you have done regarding stipend funds,  
10:49:00 5 specifically?

6 MS. WHITMER: Your Honor, it's a matter of  
7 investigation. We are going to need to really dig down into  
8 this issue and figure out the who, the what, the when, and  
9 the why because the fund, as we understand what happened,  
10:49:22 10 which again, is very preliminary. We only learned of these  
11 default cases on February 20th, and we learned on February  
12 20th because two of the employees talked to us about how  
13 this had been done.

14 So in those conversations, they described the entries.  
10:49:51 15 After I filed Docket Number 68, I had an e-mail from a  
16 student who forwarded to me his account statement, and that  
17 account statement showed the voiding of the -- of the entry.  
18 It showed the credit balance for the student, it showed the  
19 payment of the student stipend, and then it showed the  
10:50:19 20 voiding of the payment of the student stipend, and that --

21 THE COURT: What were the dates on the e-mail?  
22 When did those specific activities occur?

23 MS. WHITMER: The payment, the posting of the  
24 payment to the student was January 18th, the date that the  
10:50:44 25 Receiver was appointed. And the voiding of the entry

1 and there was another one. And they pretty much told us  
2 very forthrightly what had been happening.

3 THE COURT: Do you have the names of those  
4 individuals somewhere?

11:11:29 5 MS. WHITMER: Oh, yes.

6 THE COURT: All right.

7 MS. WHITMER: We can identify those people.

8 So they gave us that information, and then we realized that  
9 we had a very, very difficult problem at hand because it's  
10 one thing to try to get the Department of Education to relax  
11 its standards and allow and pay under this Heightened Cash  
12 Management system the student stipends or advance them when  
13 it wouldn't otherwise do that. But, to try to get the  
14 Department of Education to pay them twice was not -- I did  
11:12:12 15 not recognize it then or now as a true possibility.

16 THE COURT: All right.

17 So let me stop you if I could. And I appreciate what  
18 you're providing us. It's helpful information.

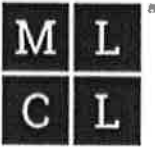
19 You've obviously seen the February 27th letter from  
11:12:29 20 Mr. Frolo.

21 MS. WHITMER: Oh, indeed.

22 THE COURT: It includes a number of statements  
23 regarding payments or releases of funds and so forth. What  
24 you're saying is consistent to a degree with what he has  
11:12:45 25 reported in the letter. He indicates on February 7th the

# **EXHIBIT D**





McCarthy, Lebit, Crystal & Liffman

Hugh D. Berkson  
Principal  
hdb@mccarthylebit.com

March 27, 2019

**Via U.S. Postal Service and Email:**

Eric Rothschild, Senior Counsel  
National Student Legal Defense Network  
1015 15<sup>th</sup> Street NW, Suite 600  
Washington, DC 20005  
[eric@nslsdl.org](mailto:eric@nslsdl.org)

RE: Dream Center Student Loan Stipend Division

Dear Mr. Rothschild,

Your letter of March 20 to Mary Whitmer and Robert Glickman just came to my attention. Unfortunately, neither Mary nor Rob is available to respond, so please accept this letter as the Receiver's response to your inquiries.

You have long expressed an interest in the stipend issue, even before you represented anyone who actually experienced that sort of problem. As I have explained to you previously, while the issue is of interest, we do not see it as *the* critical issue for which precious resources should be diverted at this moment. While we had hoped things would have settled down by now, it seems the existential crises never seem to end. At present, the Receiver's resources are focused on three principal goals (all of which serve to protect tens of thousands of students). First, he is working to complete the teach-out at the Western State College of Law, thereby allowing the 77 students eligible to graduate in May to actually receive their diplomas on May 8 and the balance of the students to transfer to other schools with their credits intact. This obviously affects your client, Marina Awed, who is among those who hope to graduate in a few weeks' time. He is simultaneously working with potential suitors who have expressed interest in buying the law school to continue its operations and allow its current students to continue their studies without interruption. There are, however, serious regulatory issues involved in effecting any transfer and the Receiver is doing what he can to facilitate a transaction to the benefit of the 321 law students who are not set to graduate in May. Second, he is attempting to transfer the Art Institute of Las Vegas to new ownership. Once again, there are serious regulatory issues that require considerable effort to resolve. Third, he is attempting to secure a plan to transition the data and contracts currently under the DCEH umbrella, which assets serve to keep

15,000 South and Art Institute students in classes, to platforms maintained by or on behalf of those two school systems. Unfortunately, it seems that Studio (on behalf of the Art Institute campuses) and Dream Center South University, LLC (“South”) have differing views as to how best to conduct the transition and, with 15,000 students’ well-being hanging on a successful transition from DCEH’s platform to another platform, the Receiver is spending considerable time addressing the issue.

Balance the efforts required to address those existential issues against your curiosity regarding what happened to stipend money.

Putting aside the fact that you have already wasted thousands and thousands of dollars for an “emergency hearing” to address stipends when it turned out *you had no standing to raise the issue in the first place*, and putting aside the fact that you have no platform on which to serve any discovery, much less expedited discovery (merely intervening in the case does not confer the right to serve discovery), we question why you believe the focus of the entire receivership should address an issue allegedly experienced by two of your clients. We also question who you think should pay the bill required to engage in the electronic forensic examination you’ve demanded. The Receivership Estate’s limited financial resources are no secret. Are you willing to pay for the staff and the tools required to dive into the electronic databases and uncover the data you’re demanding, or would you leave less money available to pay creditors, your clients included?

Please know that the Receiver’s staff *is* working to get to the bottom of the stipend issue. That work is not easy, nor will it be quick. The work is complicated by the departures of many accounting personnel who may have known something about how the process worked, and IT personnel who may have been able to help the Receiver’s staff find the relevant data. The Receiver takes his obligations to protect and preserve the Receivership Estate seriously, and that means balancing limited resources against unlimited demands. Given that you indicate that you represent two clients who allege they did not receive stipends, and given the fact that you have failed to set forth the sums you claim they are due, we are not in a position to justify any of the work you’ve demanded be done within a matter of a few days.

Finally, we must note that the stipend issue you’ve raised for your clients is a curious one. In theory, your clients borrowed a sum in excess of their tuition obligation. The difference – known as a credit balance – was supposed to be paid to your clients. They have alleged they did not receive that credit balance, in whatever sum it was supposed to be. Presuming they did not receive those sums, you have not articulated any damages. If your clients did not receive money they borrowed, their loans were (or will be) adjusted accordingly. In short, your clients will not owe a bank for money they did not receive.

In conclusion, we do not intend to respond to your discovery requests. Instead, we again urge you to consider your clients' claims in the context of the entire receivership as you decide how to proceed.

Very truly yours,

A handwritten signature in black ink, appearing to read 'H. Berkson', with a stylized flourish at the end.

Hugh D. Berkson

Cc: Robert T. Glickman (via email)  
Mark Dottore (via email)  
Mary Whitmer (via email)

UNITED STATES DISTRICT COURT  
NORTHERN DISTRICT OF OHIO  
EASTERN DIVISION

DIGITAL MEDIA SOLUTIONS, LLC	)	CASE NO. 1:19-cv-145
	)	
Plaintiff,	)	
	)	JUDGE DAN AARON POLSTER
	)	
v.	)	MAGISTRATE JUDGE
	)	THOMAS M. PARKER
SOUTH UNIVERSITY OF OHIO, LLC,	)d	
<i>et al.</i>	)	
	)	
Defendants.	)	

**ORDER AUTHORIZING INTERVENTION OF FORMER ARGOSY STUDENTS  
JAYNE KENNEY AND KENDRICK HARRISON**

After consideration of the unopposed Motion to Intervene by Jayne Kenney and Kendrick Harrison, former students at Argosy schools run by Dream Center Education Holdings (DCEH) whose student loan stipends were diverted, and it appearing that the standards of Rule 24(a) are satisfied, IT IS HEREBY ORDERED THAT the motion is GRANTED and Ms. Kenney and Mr. Harrison are permitted to intervene in this action.

IT IS SO ORDERED.

DATED: \_\_\_\_\_, 2019

\_\_\_\_\_  
THE HONORABLE THOMAS M. PARKER  
UNITED STATES MAGISTRATE JUDGE