IN THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF FLORIDA
MIAMI DIVISION

WENDY RUIZ; NOEL SAUCEDO; CAROLINE ROA; KASSANDRA ROMERO; and JANETH AMERICA PEREZ, on behalf of themselves and all others similarly situated,	)	Civil Case No. 1:11-

class; and (4) the representative parties will fairly and adequately protect the interests of the class. Fed. R. Civ. P. 23(a). These requirements are genera

With respect to establishing size, "a plaintiff need not show the precise number of members in the class." *Evans v. U.S. Pipe & Foundry Co.*, 696 F.2d 925, 930 (11th Cir. 1983). "Estimates as to the size of the proposed class are sufficient for a class action to proceed." *Wright v. Circuit City Stores, Inc.*, 201 F.R.D. 526, 537-38 (N.D. Ala. 2001). "When the exact number of class members cannot be ascertained

about class size from United States Census Bureau Population Reports); [illegible] E.I. Du Pont de Nemours & Co., 1994 U.S. Dist. LEXIS 17918, at *11-12 (S.D. Fla. June 9, 1994) (finding numerosity based, among other things, on statistical evidence); Pottinger v. Miami

Chicago Bd. of Educ., 551 F.Supp. 1107, 1109 (N.D. Ill. 1982) (in case involving exclusion of student with disabilities from public school, court considered class to include students who in the future would require placement in numerosity determination). See also Exh. 3, Decl. of N. Saucedo (affirming knowledge of Florida resident United States citizen family members who attended Florida public high schools and will be unable when applying for college); Exh. 9, Decl. of A. Dinis (children's services worker who, in the course of her practice, consults with high school guidance and bilingual counselors and has received several inquiries about Florida graduating high school students who will be classified as out-of-state students even though they are United States citizens and Florida residents).

Although Rule 23 does not require Plaintiffs to show the precise number of class members, the foregoing evidence demonstrates that the proposed plaintiff class consists of far more than the forty members that are generally "adequate." See Cox, 784 F.2d at 1553.

Moreover, it is plain from this evidence that the class is not only numerous, but also that joinder would be impracticable.[3] Practicability of joinder depends on many factors, including, for example, "the size of the class, ease of identifying class members, ease of making service on them if joined and their geographic dispersion." Wesley v. Allstate Servs., 2011 U.S. Dist. LEXIS 100139, at *7 (M.D. Ala. Sept. 6, 2011) (quoting Kilgo v. Bowman Transp., Inc., 789 F. 2d 859, 878 (11th Cir. 1986)). In assessing impracticability, courts should "take a common sense approach in which [they] take into account the objectives of judicial economy and access to the judicial process." Bradley v. Harcleroad, 151 F.R.D. 422, 426 (M.D. Ala. 1993) (quoting 1 Newberg on Class Actions, 2d ed. §3.03 at 142 (1985)). More than forty class

[3] Courts should "take a common sense approach in which [they] take into account the objectives of judicial economy and access to the judicial process."

members typically raises a presumption that joinder is impractical. Cox, 784 F.2d at 1553 (citations omitted).

Several factors support a finding of impracticability here. First, the challenged regulations apply to potential class members throughout the State of Florida in all three federal judicial districts, making joinder highly impracticable. See, e.g., Exh. 9 (Decl. of A. Dinis F K L O G U H Q ¶ V U L J K W V D W W R U Q H \ H V W L P D W L Q J W K H U H D U H

L G H Q W L I L H G ´ who would be class members have been dissuaded from completing their college applications or terminate the registration process once they learn they will be required W R S U R Y H W K H L U S D U H Q W V ¶ L P P L J U D W L R Q V W D W X V Exh. 2-7. ¶ Other students will be willing to come forward over fear of repercussions to their families Exh. 9,

and federal law. The resolution of the claims in this case will involve legal theories and facts common to all class members.

Finally, courts have found that commonality is satisfied when, as here, plaintiffs request only declaratory and injunctive relief against a common discriminatory practice or policy. See Baby Neal, 43 F.3d at 57 (3d Cir. 1994) (commonly established ³where plaintiffs request declaratory and injunctive relief against a defendant engaging in a common course of conduct toward them, and there is therefore no need for individualized determinations of the propriety of LQMXQFWLYH UHOLHI´ Anderson v. Department of Public Welfare, 1 F. Supp. 2d 456, 461-62 (E.D. 3D ³&RPPRQDOLW\ LV HDVLO\ HVWDEOLVKHG LQ FDVH A. Wright, Federal Practice and Procedure §1763, 226 (3d ed. 2005) ³>&@ODVV VXLWV injunctive or declaratory relief by their very nature often present common questions satisfying Rule 23(a)(2).´

3. Typicality.

7R HVWDEOLVK W\SLFDOLW\ WKH UHSUHVHQWDWLYH S EHWZHHQ WKH FODVV UHSUHVHQWDWLYH¶V FODLPV RU GH ZKLFK XQLWH WKH Kornberg, 741 F.2d at 1337 ³$ VXIILFLHQW QH[XV LV HV claims or defenses of the class and the class representative arise from the same event or pattern RU SUDFWLFH DQG DUH EDT W• D@p• F N SCP@± L L dOL

WKHLU SDUHQWV¶ LPPLJUDWLRQ VWDWXV Id. As a result of these discriminatory regulations, the named Plaintiffs, as well as all other members of the proposed class, have suffered the same injury ± namely, the denial of residency status for tuition purposes. See Williams v. Mohawk Indus., 568 F.3d 1350, 1357 (11th &LU ³$ FODVV UHSUHVHQWDWLYH PXVW « FODVV PHPEHUV LQ RUGHU WR EH W\SLFDO XQGHU 5XOH

Further, the same legal theories underlie the claims of all class members. Prado-Steiman ex rel. Prado v. Bush, 221 F.3d 1266, 1279 n. 14 (11th Cir. 2000) (quoting Appleyard v. Wallace, 754 F.2d 955, 958 (11th Cir. 1985)) ³D VWURQJ VLPLODULW\ RI OHJDO W W\SLFDOLW\ UHTXLUHPHQW GHVSLWH VXEVWDQWLDO IDFW alleged that a policy that denies Florida residents the same access to tuition as is provided to other Florida residents violates the equal protection and supremacy clauses of the United States Constitution. Compl. ¶¶ 49-51, 53-56. Any class member who pursues an individual action would likely rely on the same constitutional theories as those of the named Plaintiffs. The typicality requirement has therefore been met.

4. Adequacy of Representation

The representative Plaintiffs will also fairly and adequately represent the class, as required by the final prong of Rule 23. Fed. R. Civ. P. 23(a)(4). To determine adequacy, courts look to whether WKHUH DUH DQ\ ³VXEVWDQWLDO FRQIOLFWV RI L WKH FODVV DQG ZKHWKHU WKH UHSUHVHQWDWLYHV ZLOO Valley Drug Co. v. Geneva Pharmaceuticals, Inc., 350 F.3d 1181, 1189 (11th Cir. 2003) (citing In re HealthSouth Corp. Securities Litigation, 213 F.R.D. 447, 460-61 (N.D. Ala 2003)). In other words, the class representatives must show that their interests are not antagonistic to those of the

class, and W K D W W K H L U F R X Q V H O L V ³T X D O L I L H G H [S H U L H Q F
O L W L JDO.W L R Q ´

The representative plaintiffs have no interests antagonistic to those of the class. They are seeking declaratory and injunctive relief which will provide identical remedy for all members. They will suffer the same harm as all other members of the proposed class denied equal access to affordable higher education. The legal theory is the same for the representative

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: L O O L D P V Y 1 D W, 237 F.R.D. 685, 693 (N.D. Ala. 2006) (citing Holmes v. Continental Can Co., 706 F.2d 1144, 1155 (11th Cir. 1983)).

1. Class Members Have Been Harmed in Essentially the Same Way.

2.

Jerri Katzerman*
Maria Morris*
SOUTHERN POVERTY LAW CENTER
400 Washington Ave.
Montgomery, Alabama 36104
T: (334) 956-8200
F: (334) 956-8481
jerri.katzerman@splcenter.org
maria.morris@splcenter.org
*Admitted pro hac vice

Attorneys for Plaintiffs

CERTIFICATE OF SERVICE

I hereby certify that, on this 20th day of January, 2012, I electronically filed the foregoing along with all cited Exhibits, with the Clerk of the Court by using the CM/ECF system, which will send a notice of electronic filing to all counsel of record as follows: Blaine H. Winship, Special Counsel, Office of the Attorney General of Florida, The Capitol, Suite PL-01, Tallahassee, Florida 32399, blaine.winship@myfloridallegal.com.