



## VEZINA LAW GROUP

### PRESS RELEASE

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### Major University Settles Incentive Compensation Ban Lawsuit Under the Federal False Claims Act

The law firms of Vezina Law, PLC, Morgan Verkamp, LLC, Todd & Weld, LLP, and Jeff Newman Law are pleased to announce the successful settlement of the False Claims Act matter captioned *United States ex rel. Michelle Mackillop v. Grand Canyon Education, Inc., et al.* The False Claims Act allows private persons with knowledge of fraud perpetrated against the United States to file a lawsuit to redress that fraud to the benefit of the United States. The matter, brought by *qui tam* relator Michelle Mackillop, was pending in the United States District Court for the District of Arizona, and alleged that Grand Canyon University (GCU), one of the largest universities in the United States, and Grand Canyon Education, Inc. (GCE), a publicly traded third-party education service provider, violated material conditions of payment relating to federal student aid programs administered by the United States Department of Education. The relator alleged the defendants' compensation plans violated the Incentive Compensation Ban (ICB) applicable to all Title IV financial aid programs administered by the Department. GCU and GCE paid \$28 million dollars, without admitting liability, to settle the allegations that they compensated their enrollment personnel in a manner that took into account the number of students they enrolled to attend GCU.

The ICB prohibits the compensation of employees involved in the pre-enrollment recruitment of, or securing of federal financial aid for, university students based on the number of students the employee enrolls. The ICB is designed to prevent schools from recruiting and enrolling students who may use federal financial aid, such as Stafford Loans, Pell Grants, or military assistance, based on financial incentives offered to recruiters, rather than the educational needs of individual students. Colleges receiving these federal funds must act in the best interest of their students, ensuring that enrollment decisions are based on educational fit—not financial incentives. When students are recruited based on the financial benefit paid to recruiters, the risk that students who are unable or unwilling to complete a degree program increases, which ultimately increases the risk of loan default and other financial harm to both the student and the United States. In light of these important goals, the Department of Education has issued guidance regarding the ICB, reinforcing the principle that student welfare must come before institutional profit.

Ms. Mackillop, a former GCU recruiter, originally filed the lawsuit in 2018 in the United States District Court for the District of Massachusetts, where it was litigated through the summary judgment phase, at which point it was transferred to Arizona. The United States did not intervene in the matter, and Ms. Mackillop, represented by the above-named firms, litigated the matter to a successful resolution, securing a settlement of all claims shortly before trial was to commence. As the person who filed and successfully pursued the case, Ms. Mackillop was awarded a 29% share of the United States' \$28,000,000.00 recovery.

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