

News

Carlos Ortiz Analyzes in ARM Compliance Digest: Mass. AG Settles Lawsuit With Student Loan Servicer

February 23, 2021

In the February 22, 2021 edition of the *ARM Compliance Digest*, Hinshaw partner Carlos Ortiz describes a "first-of-its-kind" settlement between the Attorney General of Massachusetts and a student loan servicer the AG had sued for allegedly engaging in unfair and deceptive practices that will require the servicer to audit all 200,000 of its accounts in the state to determine if an error or misrepresentation was made and restore borrowers "to their rightful statuses" under a federal loan forgiveness program:

The Massachusetts attorney general settled a lawsuit she filed against the Pennsylvania Higher Education Assistance Agency ("PHEAA"), a student loan servicer. The lawsuit arose out of allegations that PHEAA prevented hundreds of thousands from having their loans forgiven or reduced. Among the terms of the settlement are (1) that over 200,000 Massachusetts borrowers whose federal loans PHEAA services may seek a detailed account review; (2) PHEAA must pay the borrowers if it is unable to correct any servicing errors it identifies; and (3) PHEAA must also repay teachers whose grants it erroneously converted to loans. The Massachusetts attorney general described the settlement as providing first-of-its-kind relief.

One of reasons this settlement is significant is that the judge presiding over the lawsuit declined to dismiss the case when PHEAA argued that the state law claims against it were preempted because they conflicted with federal law. This settlement follows other enforcement actions that the Massachusetts attorney general has pursued, including a settlement with ACS Education Services ("ACS") for alleged abusive student loan collection practices, under which ACS agreed to pay a \$2.4 million fine and review certain borrowers' income-based plan applications. These enforcement actions are consistent with the activities of other state attorneys general focused on student loan servicing practices. For example, the New York attorney general also sued PHEAA, alleging that its failure to administer a loan forgiveness program led many who would have qualified to be rejected. In California, the state is investigating PHEAA for allegations similar to what was claimed against it in Massachusetts. It is anticipated that more enforcement actions like this one will come and likely be concentrated in jurisdictions that have a Democrat in office for attorney general.

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