1700 G Street NW,
Washington, DC 20552




September 28, 2018

VIA ECF

The Honorable Maryellen Noreika
United States District Judge
United States Courthouse
844 N. King Street
Wilmington, DE 19801

Re: *Consumer Financial Protection Bureau v. National Collegiate Master Student Loan Trust, et al.*, No. 17-cv-01323(MN)

Dear Judge Noreika,

Pursuant to the Court's order of September 21, 2018, the Bureau and Defendants submit this joint letter to respond to the question as to what relief is sought from the Court regarding the Defendant Trusts' failure to obtain substitute counsel.

Both the Bureau and the Trusts agree that it is preferable for the Trusts to be represented by counsel and heard in this proceeding. The Proposed Consent Judgment was negotiated with the Trusts' then-counsel, McCarter and English, over an extended period in 2016-17. *See* ECF No. 54 at 6-7 (discussing settlement negotiations). Both parties have a significant interest in having the Court enter the Proposed Consent Judgment consistent with due process, which would be facilitated by the Trusts being represented by counsel.

The Trusts believe that they cannot obtain counsel absent immediate past and prospective payments, or assurances of payment, to counsel for work done, or to be done, in this case, and as set forth in their separate letter responsive to the Court's second inquiry, want the Court to make provision for such payment. The Trusts, therefore, believe the Court should take whatever expedited proceedings it deems necessary to resolve the payment issue, which issue, as reflected in the August 3, 2018, letter, is governed by unambiguous documents and is ripe for determination. *See Tafeen v. Homestore, Inc.*, 2005 WL 1314782, at *2 (Del. Ch. May 26, 2005)( procedure for determining advance of legal fees is summary in nature because of irreparable harm

flowing from defendant's inability to defend himself). *See also, AM General Holdings LLC v The Renco Group*, 2012 WL 6681994 (Del. Ch. Dec. 21, 2012).

The Bureau takes no position on what rights exist under the relevant retainer agreements referenced in Chaitman LLP's August 3 letter to the Court.

Respectfully submitted,

FOR THE BUREAU OF CONSUMER FINANCIAL PROTECTION:

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