

UNITED STATES COURT OF APPEALS
FOR THE NINTH CIRCUIT

FILED

MAR 29 2023

MOLLY C. DWYER, CLERK
U.S. COURT OF APPEALS

THERESA SWEET; et al.,

Plaintiffs-Appellees,

EVERGLADES COLLEGE, INC.,

Intervenor-Appellant,

v.

MIGUEL A. CARDONA, Secretary of the
United States Department of Education; U.S.
DEPARTMENT OF EDUCATION,

Defendants-Appellees,

LINCOLN EDUCATIONAL SERVICES
CORPORATION; et al.,

Intervenors.

No. 23-15049

D.C. No. 3:19-cv-03674-WHA
Northern District of California,
San Francisco

ORDER

THERESA SWEET; et al.,

Plaintiffs-Appellees,

v.

LINCOLN EDUCATIONAL SERVICES
CORPORATION,

Intervenor-Appellant,

No. 23-15050

D.C. No. 3:19-cv-03674-WHA

v.

MIGUEL A. CARDONA, Secretary of the
United States Department of Education; U.S.
DEPARTMENT OF EDUCATION,

Defendants-Appellees,

EVERGLADES COLLEGE, INC.; et al.,

Intervenors.

THERESA SWEET; et al.,

Plaintiffs-Appellees,

v.

AMERICAN NATIONAL UNIVERSITY,

Intervenor-Appellant,

v.

MIGUEL A. CARDONA, Secretary of the
United States Department of Education; U.S.
DEPARTMENT OF EDUCATION,

Defendants-Appellees,

EVERGLADES COLLEGE, INC.; et al.,

No. 23-15051

D.C. No. 3:19-cv-03674-WHA

Intervenors.

Before: TASHIMA, S.R. THOMAS, and KOH, Circuit Judges.

Appellants' joint motion to exceed the page limits for their joint motion for a stay pending appeal (Docket Entry No. 12) is granted.

Appellants' joint motion for a stay pending appeal (Docket Entry No. 13) is denied. *See Nken v. Holder*, 556 U.S. 418, 433-34 (2009) (stating standard).

Appellants fail to demonstrate a sufficient probability of irreparable harm to warrant a stay of the challenged settlement pending these appeals.

Plaintiffs-appellees' cross-motion to dismiss these appeals for lack of jurisdiction (Docket Entry No. 15) is denied without prejudice to renewing the arguments in the answering brief. *See Nat'l Indus. v. Republic Nat'l Life Ins. Co.*, 677 F.2d 1258, 1262 (9th Cir. 1982) (noting that merits panel may consider appellate jurisdiction despite earlier denial of motion to dismiss).

The consolidated opening brief is due May 3, 2023. The consolidated answering briefs are due June 2, 2023. The optional consolidated reply brief is due within 21 days after service of the last-served answering brief.