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IN THE UNITED STATES BANKRUPTCY COURT
FOR THE DISTRICT OF NEVADA

In re: BRADFORD CHARLES ADAM and FATIMA ALMEIDA ADAMS, Debtor(s),	CASE NO. 24-12007-nmc Chapter 7 Adv. Pro. Case No. ____
BRADFORD CHARLES ADAM, Plaintiff(s) v. UNITED STATES DEPARTMENT OF EDUCATION, et al., Defendant(s)	**COMPLAINT TO DETERMINE DISCHARGEABILITY OF STUDENT LOANS**

Plaintiff, Bradford Charles Adam, by and through his attorney, Seth Ballstaedt, brings the following complaint and alleges as follows:

I. NATURE OF CASE

1. This is an action to declare the Plaintiff’s student loan debt to Defendant(s), the United States Department of Education (“US DOE”), dischargeable as an undue hardship under 11 U.S.C. § 523(a)(8).

II. JURISDICTION AND VENUE

2. On 04/25/2024, Plaintiff filed a voluntary Chapter 7 bankruptcy proceeding, Case Number 24-12007-nmc.

3. The Court has jurisdiction pursuant to 28 U.S.C. §§ 1334 and 157. This is an action to determine the dischargeability of a debt under 11 U.S.C. § 523(a)(8), and as such, this is a core proceeding under 28 U.S.C. §157(b)(2)(I). The Plaintiff consents to the Bankruptcy Court's entry of a final order.

4. Venue is appropriate in this Court pursuant to 28 U.S.C. § 1409(a).

5. This is an adversary proceeding as defined by Fed. R. Bankr. P. 7001(6).

III. PARTIES

6. Plaintiff is a resident at 1350 N Town Center Dr, Las Vegas, Nevada.

7. Defendant is a qualifying governmental institution in the business of making, insuring, and guaranteeing student loans. Defendant's mailing address is United States Department of Education, 400 Maryland Ave., SW, Washington, DC 20202.

IV. STATEMENT OF FACTS

8. Prior to filing bankruptcy, in the course of Plaintiff's education, Plaintiff borrowed approximately $18,413.00 from Defendant(s) in order to finance Plaintiff's education. The current outstanding balance of the student loan(s) is $48,493.00. A list of the loans with current balances is attached as Exhibit #1.

9. Plaintiff incurred the student loan(s) while attending Arizona State University where Plaintiff was pursuing a bachelor's degree. No payments were due on these loans while Plaintiff was a full-time student.

10. Plaintiff completed his course of study and received a degree in 05/2022.

11. Under the terms of the loans, Plaintiff was required to begin payments six months after enrollment in the school ended.

12. Under the U.S. Department of Education's Standard Repayment Plan, Plaintiff would be required to maintain monthly payments of $183.14 for ten years in order to pay off

the balance of the student loans.

13. Since repayment on the student loans began, the debtor has:

a. Made approximately 5 payments on the loans, totaling approximately $250.00.

b. Received 18 cumulative forbearances & deferments.

c. Applied for Income-Driven Repayment Plan.

14. Plaintiff is currently self-employed as an Uber Driver. Plaintiff's gross monthly income from employment and other sources is $4,500.00.

15. Plaintiff's current monthly household expenses, including payroll deductions, are $5,563.00.

V. DETERMINATION OF DISCHARGEABILITY

16. Under Section 523(a)(8) of the Bankruptcy Code, certain student loans may not be discharged in bankruptcy unless the bankruptcy court determines that payment of the loan "would impose an undue hardship on the debtor and the debtor's dependents." 11 U.S.C. § 523(a)(8).

17. The most common framework for assessing undue hardship is the so-called *Brunner* test. *Brunner v. New York State Higher Education Services Corp.*, 831 F.2d 395 (2d Cir. 1987). To discharge a student loan under the Brunner test, a bankruptcy court must find that the debtor has established that (1) the debtor cannot presently maintain a minimal standard of living if required to repay the student loan, (2) circumstances exist that indicate the debtor's financial situation is likely to persist into the future for a significant portion of the loan repayment period, and (3) the debtor has made good faith efforts in the past to repay the student loan. *Id.* at 396.

18. Plaintiff is unable to make payments on his student loans. After deducting Plaintiff's reasonable and necessary expenses from his income, Plaintiff's discretionary

income is insufficient to make student loan payments as required under the loan agreement.

19. Plaintiff's current state of affairs is likely to persist, and his financial circumstances are unlikely to materially improve, for a significant portion of the debt repayment period.

20. Plaintiff has made good faith efforts to repay the student loans at issue in this proceeding.

21. Plaintiff faces undue hardship as the primary caregiver for his wife, who has stage four cancer affecting her spinal cord, ribs, hips, nose, and throat, rendering her unable to work and requiring constant care. Additionally, Plaintiff manages the daily needs of their 14-year-old daughter. These responsibilities severely limit Plaintiff's ability to work full-time, making it impossible to afford student loan payments without extreme financial strain. The ongoing nature of these caregiving duties creates a persistent barrier to Plaintiff's ability to generate sufficient income for loan repayment.

22. At 64 years old, Plaintiff is on the cusp of retirement age. Expecting Plaintiff to work for the next 10 years to meet student loan obligations is both unrealistic and potentially hazardous to his health. Plaintiff's anticipated social security benefits will be insufficient to cover both basic living expenses for his family and student loan payments. This situation will further exacerbate his financial hardship throughout the repayment period, underscoring the long-term nature of Plaintiff's inability to manage these loan obligations while maintaining a minimal standard of living.

23. Based upon the foregoing facts and circumstances, Plaintiff cannot maintain a minimal standard of living if forced to repay the student loans.

WHEREFORE, Plaintiff respectfully requests this Court to enter an order:

1. finding that excepting his student loans from discharge would impose an undue hardship as provided in 11 USC §523(a)(8),

2. declaring the student loans to be included in Plaintiff's discharge under §727(a)/1328(a), and
3. for any other relief as the Court deems just and proper.

Respectfully Submitted,

By: /s/ Seth D. Ballstaedt, Esq
Seth D. Ballstaedt, Esq.
Attorney for Plaintiff(s)

Exhibit #1

List of loans with current balances

Loan Type (Loan Holder/Servicer)	Principal Balance	Accrued Interest	Status
DIRECT STAFFORD SUBSIDIZED(DEPT OF ED/NELNET)	$ 5,431.00	$ 25.00	BANKRUPTCY CLAIM, ACTIVE
DIRECT STAFFORD UNSUBSIDIZED(DEPT OF ED/NELNET)	$ 1,637.00	$ 8.00	BANKRUPTCY CLAIM, ACTIVE
DIRECT STAFFORD SUBSIDIZED (SULA ELIGIBLE)(DEPT OF ED/NELNET)	$ 623.00	$ 2.00	BANKRUPTCY CLAIM, ACTIVE
DIRECT STAFFORD SUBSIDIZED (SULA ELIGIBLE)(DEPT OF ED/NELNET)	$ 4,086.00	$ 14.00	BANKRUPTCY CLAIM, ACTIVE
DIRECT STAFFORD UNSUBSIDIZED(DEPT OF ED/NELNET)	$ 2,449.00	$ 8.00	BANKRUPTCY CLAIM, ACTIVE
DIRECT STAFFORD SUBSIDIZED (SULA ELIGIBLE)(DEPT OF ED/NELNET)	$ 4,187.00	$ 23.00	BANKRUPTCY CLAIM, ACTIVE