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Attorney for debtor(s)

Hon. Karen A Overstreet
Chapter: 13

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UNITED STATES BANKRUPTCY COURT
WESTERN DISTRICT OF WASHINGTON AT SEATTLE

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|------------------------------|---|-------------------------|
| IN RE: |) | ADV NO: |
| |) | |
| JULIE ANN BRADFORD |) | CASE NO. 09-18160-KAO13 |
| |) | |
| Debtor(s) |) | |
| _____ |) | COMPLAINT TO DETERMINE |
| JULIE ANN BRADFORD |) | DISCHARGEABILITY OF |
| |) | STUDENT LOANS |
| Plaintiffs |) | |
| |) | |
| v. |) | |
| |) | |
| SALLIE MAE EDUCATION CREDIT |) | |
| FINANCE CORPORATION; SALLIE |) | |
| MAE INC; NORTHWEST |) | |
| EDUCATION LOAN ASSOCIATION; |) | |
| WELLS FARGO EDUCATIONAL |) | |
| FINANCIAL SERVICES, A |) | |
| DIVISION OF WELLS FARGO BANK |) | |
| NA; US DEPT OF EDUCATION; VL |) | |
| FUNDING; EDUCATIONAL CREDIT |) | |
| MANAGEMENT CORPORATION |) | |
| Defendant(s) |) | |

Plaintiff/debtor JULIE ANN BRADFORD, by and through
counsel, brings her complaint against defendant(s) SALLIE MAE
EDUCATION CREDIT FINANCE CORPORATION; SALLIE MAE INC;
NORTHWEST EDUCATION LOAN ASSOCIATION; WELLS FARGO EDUCATIONAL
FINANCIAL SERVICES, A DIVISION OF WELLS FARGO BANK NA; WELLS
FARGO EDUCATIONAL ; US DEPT OF EDUCATION; VL FUNDING;
EDUCATIONAL CREDIT MANAGEMENT CORPORATION and alleges as
follows.

PARTIES, JURISDICTION AND VENUE

1 1. This action is brought to determine dischargeability of
2 educational/student loans pursuant to 11 USC 523(a)(8). This
3 action is a core proceeding pursuant to 28 USC Section
4 157(b)(2)(I), subject matter jurisdiction is present via 28
5 USC 157 and 1334, and venue is proper pursuant to 28 USC
6 1409(a).

7
8 2. Plaintiff JULIE ANN BRADFORD is a single person and the
9 debtor in Chapter 13 case 09-18160-KA013, filed on August 12,
10 2009 with discharge issued September 14, 2012. Defendants
11 SALLIE MAE EDUCATION FINANCE CREDIT CORPORATION; SALLIE MAE
12 INC; NORTHWEST EDUCATION LOAN ASSOCIATION; WELLS FARGO
13 EDUCATIONAL FINANCIAL SERVICES, A DIVISION OF WELLS FARGO BANK
14 NA; US DEPT OF EDUCATION; VL FUNDING; EDUCATIONAL CREDIT
15 MANAGEMENT CORPORATION are lenders, guarantors, holders and
16 servicers associated with educational/student loan funding.

17
18 FACTS

19 3. Debtor is a 56 year old female (turning 57 on October 12,
20 2012) who incurred student loan debt primarily between 2004
21 and 2009. There are \$98,268.84 in student loan claims filed
22 in the present case among 4 claimants. Debtor attended
23 Everett Community College and Edmonds Community College, and
24 earned her Associates of Technical Arts (2 year) in Accounting
25 with a bookkeeping certificate. However, debtor suffers from
26 medical conditions including Fibromyalgia that interfere with
27 work, and she was unable to find employment in that field.

1 Debtor works full time as she is able as a licensing agent for
2 a vehicle licensing service in Seattle. Debtor was able to
3 finish her Chapter 13 and obtain her discharge.

4 4. Debtor's budget shows gross income of \$2106.23 per month,
5 net of \$1766.97 and expenses of \$1617.05 for net disposable
6 income of \$149.92. However, debtor is having additional
7 health issues that may lower her ongoing disposable income, as
8 well as attorney fees for this adversary. Debtor submits
9 there are no funds available for creditors at this time.

10
11 5. It will be impossible for debtor to service the
12 outstanding \$98,268.84 in educational loans moving forward,
13 and with her health issue and age, there is little chance her
14 income will substantially improve in the future.

15
16 6. The filed and allowed loans believed at issue under 11
17 USC 532(a) (8) are:

18
19 Claim #02 - Northwest Education Loan Association - NELA
20 Amount: \$11,836.96

21 Claim #03 - Wells Fargo Education Financial (assigned to)
22 Educational Credit Management Corporation
Amount: \$11,471.95

23 Claim #08 - VL Funding, c/o Sallie Mae Inc
Amount: \$14,154.51

24 Claim #09 - Sallie Mae ECFC
25 Amount: \$60,805.42

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1 Debtor requests a reservation to amend and/or add
2 defendants as other student loan, guarantee or assignment
3 creditors become apparent, or to identify and name true
4 parties in interest.

5 CAUSE OF ACTION

6
7 6. Incorporate paragraphs 1 through 6 herein.

8
9 7. Debtor seeks a determination by this Court that excepting
10 the above educational/student loans from discharge would
11 impose an undue hardship on the debtor pursuant to 11 USC
12 523(a)(8), and that after such determination deems the
13 educational/student loans as discharged. United Student Aid
14 Funds v. Pena (In re Pena), 155 F.3d 1108 (9th Cir. 1998)
15 citing In re Brunner, 46 B.R. 752 (S.D.N.Y. 1985).

16
17 PRAYER FOR RELIEF

18
19 1. Debtor respectfully requests that the Court make a
20 finding of undue hardship pursuant to 11 USC 523(a)(8) and
21 enter judgment deeming the educational/student loans as
22 discharged in full.

23
24 2. In the alternative if full discharge is not available,
25 debtor requests an equitable finding for a partial discharge,
26 following Saxman v. Educ. Credit Mgmt. BJR Corp. (In re
27 Saxman), 325 F.3d 1168, 1174 (9th Cir. Wash. 2003).

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3. Other such relief as the Court deems just, equitable and appropriate.

Respectfully submitted,

September 16, 2012
DATED

/s/ Thomas K. Atwood
Thomas K. Atwood
Attorney for debtors(s)

From Article at GetOutOfDebt.org

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