

IN THE UNITED STATES BANKRUPTCY COURT
FOR THE SOUTHERN DISTRICT OF ILLINOIS

NATHAN PATRICK BISHOP)	
and AMY RENEE BISHOP,)	BK Case No. 12-31881
)	
Debtors/.)	In Proceedings Under Chapter 7
)	
AMY RENEE BISHOP, Plaintiff,)	
v.)	
SALLIE MAE, Defendant.)	

PETITION FOR HARDSHIP DISCHARGE

COMES NOW Debtor/Plaintiff, Amy Renee Bishop, by and through her attorney, Leslie A. Wood, and for her Petition for a Hardship Discharge, pursuant to Section 523(a)(8)(B), of a loan made to her for student loan purposes by Sallie Mae, Defendant, states:

- 1) This adversary proceeding is brought pursuant to the provisions of 11 U.S.C. Section 523(a)(8) and Fed. R. Bankr. P. 7001(6).
- 2) This Court has jurisdiction over the proceeding, pursuant to 28 U.S.C. Section 1334; this matter is a core proceeding under 28 U.S.C. Section 157(b)(2)(I) and venue being proper under 28 U.S.C. Section 1409(a).
- 3) Plaintiff is the Debtor in the above-entitled Chapter 7 case #12-31881, having filed her case on October 3, 2012.
- 4) Defendant Sallie Mae is a pre-petition creditor in the aforesaid bankruptcy case, pursuant to a promissory note signed by Plaintiff for the purposes of obtaining a loan for her college education.

From Article at GetOutOfDebt.org

- 5) Plaintiff/Debtor, Amy Renee Bishop, owes a government secured student loan obligation to Sallie Mae, with a principal sum balance of approximately \$6,896.15.
- 6) Since taking out the loan, Plaintiff and her co-debtor husband had their second child, Caitlyn, born May 25, 2011.
- 7) Caitlyn was born with severe birth defects which require 24 hour medical care and supervision. The child has cardiomyopathy, has been on a heart and lung bypass machine, has had 9 operations in her 17 months of life, has been diagnosed with Turner's Disease and cerebral palsy and other disorders which will disable her throughout her life, and from which she will never recover.
- 8) Medical care and supervision of Caitlyn, now 17 months old, requires almost daily occupational and physical therapy, and doctor appointments. In addition, the child is on a feeding tube, and must be monitored 24 hours a day to make sure she is breathing. The majority of the child's monitoring, feeding, care, and transport to therapy, is performed by Amy Bishop.
- 9) After the birth of Caitlyn, the child was in the hospital on life support for 2 months, and Amy Bishop was unable to return to work after the birth of the child.
- 10) Amy Bishop attempted to return to work in April 2012, but after 2 weeks was not able to continue to work due to the constant monitoring needed by Caitlyn.

11) Debtors are not financially able to hire caretakers to monitor Caitlyn around the clock, and/or hiring such a person would be so expensive as to exhaust any earnings that Amy Bishop could bring in if she worked outside the home.

12) The two-earner family that the Bishops were prior to Caitlyn's birth has been reduced to a one-earner family, causing financial crisis that led to this bankruptcy.

13) That the 24 hour care provided by Amy Bishop for her daughter will be needed, due to Caitlyn's health condition, on an ongoing basis, throughout the child's entire life.

14) That the requirement of Amy Bishop to pay back her student loan is an undue hardship, as defined under the meaning of 11 U.S.C. Section 523(a)(8).

15) That under the three part test enumerated in the case of In re Brunner, 46 B.R. 752 (S.D.N.Y. 1985), aff'd 831 F.2d 395 (2d Cir. 1987), the Debtor must establish:

- That she cannot maintain, based on current income and expenses, a minimal standard of living for herself and her dependents if forced to repay the loan;
- That "additional circumstances exist indicating that this state of affairs is likely to persist for a significant portion of the repayment period of the student loan;
- That the debtor made a good faith effort to repay the loan.
In Re Brunner, 46 B.R. 752 (S.D.N.Y. 1985) aff'd 831 F.2d 395 (2d Cir. 1987)

16) That this case is distinguishable from the 7th Circuit's seminal case of In Re Roberson, 999 F.2d 1132 (7th Cir. 1993), in which the 7th circuit defined the

term “certainty of hopelessness”, in that that the 7th Circuit dealt with circumstances within the debtor’s control in Roberson, that made it difficult for the debtor to repay his student loans.

17) The birth defects of Caitlyn Bishop, and Amy Bishop’s indefinite inability to work while caring for her disabled child, are factors beyond her reasonable control.

18) Debtor was making an effort to repay the student loan prior to the birth of her disabled child.

19) Debtor was not in default on this student loan prior to the birth of her disabled child.

20) Debtor is unable to make payments on this loan, as she is currently not earning income, and even with her husband’s income, there is no money left after caring for her other child, and the expenses of caring for her disabled child, to pay on the student loan.

21) That Caitlyn will never recover from her birth defects and disabilities, and will require the current level of monitoring throughout her entire life.

WHEREFORE, Plaintiff Amy Bishop prays that this Court enter an order discharging the indebtedness owed to Sallie Mae because her present and future family circumstances do not enable her to work outside the home, and that the repayment of this debt imposes an undue hardship on her and her dependents.

/s/ Leslie A. Wood #6244926
Attorney for Amy Bishop

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From Article at GetOutOfDebt.org

CERTIFICATE OF SERVICE

THE UNDERSIGNED HEREBY CERTIFIES THAT SHE HAS CAUSED A TRUE COPY OF THESE DOCUMENTS TO WIT:

IN RE: Bishop vs Sallie Mae
Bk. No. 12-31881

DOCUMENTS: Petition for Hardship Discharge

TO BE SERVED UPON:

The undersigned hereby certifies that a true and accurate copy of Petition for Hardship Discharge was deposited in the U.S. Mail first class postage prepaid on November 1, 2012, addressing the following:

Gerald Burke
United States' Attorney's Office
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ELECTRONICALLY FILED TO THE FOLLOWING on November 1, 2012:

Clerk, US Bankruptcy Court
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/s/ Leslie A. Wood

Leslie A. Wood

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