

Lawrence W. Erwin, OSB #730850
E-Mail: lwerwin@lwerwin.com
Attorney for Plaintiff
221 NW Lafayette Ave.
Bend, OR 97701-1927

Phone: (541) 317-0520
FAX: (541) 317-0524

From Article at GetOutOfDebt.org

UNITED STATES BANKRUPTCY COURT
FOR THE DISTRICT OF OREGON

In re:)	
)	
Jessica Ann Givens,)	Case No. 12-34644-elp7
)	
Debtors.)	
<hr/>		
Jessica Ann Givens,)	Adv. Proc. No. 11-
)	
Plaintiff,)	COMPLAINT TO OBTAIN
)	HARDSHIP DISCHARGE
vs.)	11 USC §523(a)(8)
)	
American Education Services; Direct Loans)	
By U.S. Department of Education)	
)	
Defendants.)	
<hr/>		

Plaintiff alleges:

BR 7008-JURISDICTIONAL ALLEGATIONS

1. The court has jurisdiction over this matter pursuant to 28 USC §157, 28 USC §1334; and 11 USC §523.
2. Venue is proper under 28 USC §1409
3. Plaintiff has filed for relief under Chapter 7 of the U.S. Bankruptcy Code, District of Oregon at Portland, Oregon, *In re: Jessica Ann Givens*, Case No. 12-34644-elp7.
4. This is a core proceeding.
5. Defendants are creditors of Plaintiff for student loans made prior to filing of bankruptcy.

CLAIM FOR HARDSHIP DISCHARGE – 11 USC §523(a)(8)

6. 11 USC §523(a)(8) excepts from discharge, loans guaranteed by a governmental unit or a qualified education loan as defined in section 221(d)(1) of the Internal Revenue Code of 1986 incurred by an individual debtor, unless excepting the loan from discharge would create an undue hardship upon debtor.
7. The loans of approximately \$85,086.46 to American Education Services 80 3378 8494, and of \$27,952.97 Direct Loans, U.S. Dept. of Education xxx-xx-2864 are believed to be such non-dischargeable loans.
8. Plaintiff. However would suffer an undue hardship if the loans were not discharged.
9. The basis of the hardship claimed include:
 - a) Suffering medical issues, thyroid cancer;
 - b) Inability to find employment in a depressed economy over which she has no control which would allow her to repay the loans during her lifetime;
 - c) Extraordinary monthly medical expenses to sustain her life – medical insurance \$300; prescriptions \$75; chiropractic care \$350; vitamins and supplements \$275, Physicians

Personal Access fee \$125; gym-exercise requirements \$100, disability Insurance \$175; or \$1,400 per month against an annual income of \$14,198.43 for 2010, and against net income at present of \$3,400 which appears to be in the fixed range she can earn;

d) Undergoing a recent and financially adverse dissolution of marriage in October 2011.

10. Debtors net income is <\$1,101.67> per Schedule J, scheduling \$510 for monthly student loan payments.

11. Plaintiff did not make a choice to be or become poor, remain poor and made a good faith effort to repay the loans, and she requests discharge under the legal doctrines in *Brunner* and as set forth in the decision in *Bene v. Educational Management Corporation*, U.S. Bankruptcy Court, Western District of N.Y. Main Case 03-14328 K; Adv. Case No. 08-1167 K.

WHEREFORE, Plaintiff prays for judgment as follows:

1. The plaintiff's loans be declared to be discharged as constituting an undue hardship;
2. For such other relief as the court deems equitable

DATED this 29th day of August, 2012.

/s/ Lawrence W. Erwin

Lawrence W. Erwin, OSB #730850
Trial Attorney-Attorney for Plaintiff