

UNITED STATES BANKRUPTCY COURT
 FOR THE CENTRAL DISTRICT OF ILLINOIS
 DANVILLE DIVISION

2012 APR 17 AM 10:29

FILED

IN RE:)	
)	
WILLIAM MOORE, Debtor)	Case No. 12-90460
2906 River Oak Drive)	
Champaign, IL 61822)	
SS# _____-3763)	Chapter 7
)	
WILLIAM MOORE,)	
Plaintiff, Pro Se)	Adv. Proc. No. _____
)	
US DEPARTMENT OF EDUCATION,)	
SALLIE MAE,)	
Defendants.)	
)	

COMPLAINT TO DISCHARGE STUDENT LOAN OBLIGATIONS

NOW COMES William Moore, (herein after referred to as "Debtor"), pro se, and for his Complaint to Discharge Student Loan Obligations, states:

1. Debtor filed this case under Chapter 7 of the Bankruptcy Code on March 27, 2012. The court has jurisdiction of this action under 28 U.S.C. sec. 1334. This is a core proceeding.
2. Some of the obligations listed in Debtor's Schedule F are or could be claimed to be "student loans" for purposes of U.S.C. sec. 523(a)(8) of the Bankruptcy Code (the "Student Loans") and would be non-dischargeable in the absence of a showing that non-discharge would "...impose an undue hardship on the debtor and the debtor's dependents."
3. Debtor has made a good faith effort to repay each of the Student Loans.

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4. Debtor cannot maintain, based upon his current income and expenses, a minimal standard of living for himself and his dependents if forced to repay the Student Loans.
5. Debtor is permanently disabled and his lack of income or resources with which to pay the Student Loans is likely to persist for a significant portion of the repayment period of the Student Loans so any payments could only be made at great hardship to Debtor and his dependants.
6. In order to further his own or his children's higher education, Debtor borrowed from Defendant Sallie Mae, in the form of private loans not federally guaranteed (the "Sallie Mae Private Loans").
7. In order to further his own or his children's higher education, Debtor borrowed federally guaranteed obligations (the "Federally Guaranteed Student Loan(s)") from:
 - a. Sallie Mae
 - b. Illinois Student Assistance Commission (ISAC)
 - c. Utah Higher Education Assistance Authority (UHEAA)
8. It is Debtor's understanding that pursuant to recent changes in law, the original lenders of the Federally Guaranteed Student Loans listed in Paragraph 7 transferred some or all of their holdings of Debtor's obligations to:
 - a. Ed Financial
 - b. Federal Loan Servicing
 - c. Nelnet/TPD Servicing
 - d. United Student Aid Funds, Inc.
 - e. Illinois Designated Account Purchase Program (IDAPP)
9. Some or all of the Defendants listed in Paragraph 8 may have been original lenders of some Federally Guaranteed Student Loans, but Debtor's records are insufficient to determine this accurately.

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10. As more fully explained below, to the best of Debtor's knowledge and belief, legal and beneficial ownership of all of the Federally Guaranteed Student Loans now reside in Defendant US Department of Education ("Education"), pursuant to Education's disability discharge procedure.
11. To the best of Debtor's knowledge and belief, each of the Student Loans outlined above entered its respective repayment period and Debtor made a number of timely payments on each one.
12. To the best of Debtor's knowledge and belief, Debtor was never in default in the payment of any of the student loans outlined above other than a possible occasional late payment made current either with a payment (plus late fee) or the proper application of an available deferment until the occurrence of the disabling event described below.
13. On December 30, 2009 Debtor became permanently disabled as a result of complications from spine surgery (the "Disabling Event"), more particularly described below.
14. In Spring 2010 Debtor submitted an application for a disability discharge to each of the then holders of the Federally Guaranteed Student Loans.
15. Each of the then individual holders of a Federally Guaranteed Student Loan reviewed Debtor's medical records and determined that Debtor is disabled to the extent that he is entitled to a disability discharge of the obligations they held.
16. To the best of Debtor's knowledge and belief, based upon discharge letters received from the then respective holders of the Federally Guaranteed Student Loans, legal and beneficial title to each of the Federally Guaranteed Student Loans was transferred to Education in Fall of 2010 pursuant to Education's regulations.
17. It is Debtor's understanding, based on phone calls with Nelnet (Education's servicer) placed in or about August 2011, that Nelnet has reviewed Debtor's medical records, that Nelnet has determined that Debtor is entitled to a disability discharge and that Nelnet has advised the Department of Education to that effect.

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18. Debtor has not received a discharge letter from Education despite numerous phone calls to Nelnet which gave assurances that such a letter was soon forthcoming and Debtor is unable to access his Nelnet account online to see the status of any letter despite numerous phone calls to Nelnet technical help line to solve the problem of lack of access.
19. In Spring, Summer and Fall of 2010 Debtor repeatedly contacted Sallie Mae and its debt collectors in an attempt to settle his obligations on the Sallie Mae Private Loans either by a lump sum payment (with cash from Debtor's 401K plan) or by regular minimal payments until Debtor's situation stabilized.
20. Despite repeated efforts and making offers that would have put Debtor in a very difficult financial situation, Debtor was unable to get Sallie Mae to agree to a settlement or payment plan with respect to the Sallie Mae Private Loans.
21. It is Debtor's understanding that Sallie Mae does not have a disability discharge available for private loans issued prior to 2011, but Debtor has not heard from Sallie Mae since Fall of 2010, which, coincidentally, is when Sallie Mae reviewed Debtor's medical records and determined that Debtor is entitled to a disability discharge with respect to the Sallie Mae Federally Guaranteed Student Loans. (It is Debtor's understanding that Sallie Mae now offers disability discharges for private loans issued in 2011 or later.)
22. Debtor has suffered from back pain since high school.
23. Debtor is 56 years old and has spent most of his professional life as a transactional attorney, which allowed him to limit his physical activity and avoid pain.
24. Debtor had lower back surgery in 2000 which reduced the pain for several years but the problems returned and became worse by 2007.
25. Debtor retired from fulltime law practice in June 2007 and earned a modest amount of income on a part time basis from advising businesses on how to finance their activities, advising sellers of real estate how to find like kind exchange properties and from a limited amount of transactional legal work.

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26. In Fall 2009 Debtor's back pain had become more severe and he was losing use of his legs and arms so he traveled to the Mayo Clinic in Rochester, Minnesota for an examination.
27. Debtor was advised by the Mayo Clinic that his spine had not formed properly and that without a series of complicated and risky surgeries he would remain in pain and would lose use of his legs and arms and would become incontinent.
28. Debtor had the first surgery (on the cervical spine) on December 30, 2009.
29. When Debtor awoke from the December 30, 2009 surgery, he was unable to move either arm and he had little strength or balance in his legs. (Debtor had been advised that such deficiencies were a known risk of this particular surgery but had elected to have the surgery and take the risk.)
30. Debtor had a second cervical surgery five days later (January 4, 2010) to adjust some aspects of the first surgery.
31. Debtor spent twenty-two days in the hospital to deal with pain (using an IV) and regain enough strength in his legs that he would be mobile with his wife's help.
32. Debtor had a third surgery at the Mayo Clinic in November, 2010, on his lower back.
33. Since the Disabling Event, Debtor has spent most of each day doing physical therapy, exercising, walking and resting to encourage the disturbed nerves to recover.
34. Debtor is only able to walk short distances without a cane and has limited strength and endurance in his legs.
35. Debtor has limited range of motion, strength and endurance in his arms.
36. Debtor still suffers significant pain in his back most of the time.

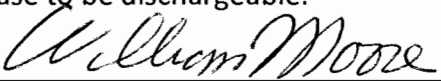
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37. In December, 2011, Debtor was examined at the Mayo Clinic and advised that he is unlikely to see much additional improvement in his condition but that he should continue with the prescribed therapy, exercise, walking and rest in order to obtain as much improvement as possible.
38. In the next few years Debtor will need an additional surgery on his middle back to complete the restructuring of his spine.
39. In addition to his spinal problems, Debtor was born with a bi-cuspid aortic valve which has lead to significant inefficiencies in blood circulation and the development of an aneurysm in his aortic artery.
40. As a result of Debtor's heart condition, he has reduced energy and, after doing his daily therapy and exercise, must spend much of the remainder of the day resting.
41. To correct his heart condition, Debtor has been advised by the Mayo Clinic that he will require open-heart surgery in the next 2-8 years.
42. As a consequence of his arm and leg deficiencies, his near constant back pain and his heart condition, Debtor is rarely able to spend more than a few hours in any given day attending to business affairs and what time he does spend is broken up with frequent rest periods.
43. Debtor has been advised that his condition is not likely to improve significantly with time.
44. Since the Disabling Event, Debtor's income has been primarily from Social Security Disability payments and he continues to receive them.
45. The Social Security Department conducts reviews of disability claimants to see if they remain qualified but has indicated, based on their review of Debtor's medical records, that they will not conduct such a review of Debtor for 5-7 years, the maximum period possible (thus recognizing that Debtor's condition is not likely to change).

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46. Since the Disabling Event, Debtor has tried to work within the limits of his health constraints and come up with some way to earn money in a regular and reasonably predictable manner but has been unsuccessful, earning a very limited amount from just one isolated project.
47. Debtor's current income is \$2,351 per month from Social Security Disability, which is approximately \$2,250 less than Debtor's expenses of approximately \$4,500.
48. Debtor's church has been providing approximately \$700 per month to pay Debtor's power bill and Debtor's wife's health insurance premium.
49. Debtor has not been making Debtor's mortgage payments of approximately \$1,500.
50. Debtor has not had any health insurance since December, 2011, but will qualify for medicare in June, 2012.
51. As more fully set forth above, Debtor has made a good faith effort to repay the Student Loans, his current income and resources are such that he is unable to maintain a minimal standard of living even without making payments on the Student Loans and it is unlikely that Debtor's financial situation will improve significantly during the repayment period of the Student Loans.

WHEREFORE, Debtor prays that the Court enter an Order declaring each and every Student Loan listed by Debtor on Schedule F of this case to be dischargeable.



William Moore, Debtor & Plaintiff, pro se

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PROOF OF SERVICE

I certify that on April 14, 2012 at 11:00 a.m., I deposited a copy of the foregoing in a U.S. Post Office Box, Champaign, Illinois, enclosed in an envelope with proper postage pre-paid, addressed to the following in the manner set forth:

Department of Education
c/o US Attorney
318 South Sixth Street
Springfield, IL 62701-1626

US Department of Education
PO Box 173904
Denver, CO 80217

Sallie Mae
PO Box 9500
Wilkes-Barre, PA 18773-9500

Jeffrey D. Richardson, Esq.
US Trustee
132 South Water Street, Suite 444
Decatur, IL 62523

Nelnet/TPD Servicing
3015 S Parker Rd
Suite 400
Aurora, CO 80014-2904

United Student Aid Funds, Inc.
c/o Sallie Mae Post Claim MC E2142
PO Box 9460
Wilkes-Barre, PA 19773-9460

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ED Financial IDAPP
120 N Seven Oaks Drive
Knoxville, TN 37922

IDAPP
PO Box 707
Deerfield, IL 60015-0707

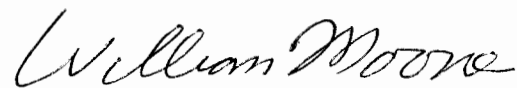
FMS Services
PO Box 68245
Schaumburg, IL 60168-0245

National Enterprise Systems
29125 Solon Road
Solon, OH 44139-3442

UHEAA
60 S 400 W
Salt Lake City, UT 84114-5102

ISAC
509 S 6th Street
Springfield, IL 62701

Federal Loan Servicing
PO Box 69184
Harrisburg, PA 17106-9184

A handwritten signature in cursive script that reads "William Moore". The signature is written in black ink and is positioned above a horizontal line.

William Moore