

UNITED STATES BANKRUPTCY COURT
SOUTHERN DISTRICT OF FLORIDA
Miami Division

IN RE:

HENRY VELEZ, and
CARMEN I. VELEZ,

Case No. 12-16838-BKC-RAM

Debtors.

Chapter 7 Case

HENRY VELEZ, and
CARMEN I. VELEZ,

Plaintiffs,

Adv. Proc. No. 12-01333-BKC-RAM-A

vs.

SALLIE MAE, and EDUCATIONAL
CREDIT MANAGEMENT CORPORATION,

Defendants.

**JOINT MOTION TO DISMISS DEFENDANT EDUCATIONAL CREDIT
MANAGEMENT CORPORATION FROM ADVERSARY PROCEEDING**

Plaintiff Carmen I. Velez (“Mrs. Velez”) and Defendant Educational Credit Management Corporation (“ECMC”)(collectively with Mrs. Velez, the “Parties”), jointly move the Court for the entry of an Order dismissing ECMC from this adversary proceeding. Mrs. Velez and ECMC are seeking the instant relief because the Parties are happy to advise the Court that they have amicably resolved the issues relating Mrs. Velez’s student loans that she owes to ECMC. In support thereof, ECMC and Mrs. Velez state as follows:

1. Plaintiffs Henry Velez (“Mr. Velez”) and Mrs. Velez (collectively, “Plaintiffs”) commenced the instant adversary proceeding when they filed *Debtors’ Complaint to Determine Dischargeability of Student Loan* (the “Complaint”) against two named defendants, Sallie Mae and USA Funds. In the Complaint, Plaintiffs sought, *inter alia*, a discharge of their alleged

student loan debt. Plaintiffs also contend that their signatures were forged on the underlying loans.

2. The federal PLUS Loans that Mrs. Velez owes ECMC that are the subject, in part, of Plaintiffs' Complaint in this action were made pursuant to the Federal Family Educational Loan Program (the "PLUS Loans"). ECMC received an assignment of the PLUS Loans from USA Funds, Inc. on May 14, 2012, and filed an agreed motion to be substituted as party defendant for named defendant USA Funds. *See* D.E. 11. On May 31, 2012, the Court entered its Order substituting ECMC as a party defendant in this action. *See* D.E. 13.

3. Since being substituted as party defendant, ECMC and its undersigned counsel have had number of discussions with counsel for Mrs. Velez in the hopes of trying to resolve this matter amicably as it pertains to the PLUS Loans that Mrs. Velez owes to ECMC.¹

4. As a result of those discussions, Mrs. Velez and ECMC are happy to advise the Court that Mrs. Velez and ECMC have resolved the issues between them, as Mrs. Velez is going to consolidate her PLUS Loans under the William D. Ford Direct Loan Program (the "Ford Program") and to seek repayment under the Income Contingent Repayment ("ICR") option.²

5. For that reason, ECMC and Mrs. Velez jointly request that the Court dismiss ECMC from this adversary proceeding.

6. Because this motion is being filed on a joint agreed basis, the Parties do not believe that a hearing is necessary. A proposed order is attached hereto as Exhibit A.

¹ Mr. Velez is obligated to Defendant Sallie Mae on an educational loan that is the subject of this adversary proceeding. Mrs. Velez is obligated to Defendant Sallie Mae on a separate educational loan that is also the subject of this adversary proceeding.

² ECMC has already provided Mrs. Velez's undersigned counsel with the requisite forms to consolidate the PLUS loans into the Ford Program and to repay that consolidated loan under the ICR.

WHEREFORE, Plaintiff Carmen I. Velez and Defendant Educational Credit Management Corporation respectfully request that the Court enter an Order dismissing ECMC from this adversary proceeding, and granting them such other and further relief as the Court deems necessary and proper.

Dated: September 5, 2012

Respectfully submitted,

**RASCO KLOCK REININGER PEREZ
ESQUENAZI VIGIL & NIETO**

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By: /s/ John D. Eaton

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CERTIFICATE OF SERVICE

I HEREBY CERTIFY that a true and correct copy of the foregoing Joint Motion was served via CM/ECF transmission, on this 5th day of September, 2012, to Dorothy G. Negrin, Esq., 782 NW Le Jeune Rd., Suite 428, Miami, Florida 33126; and to Gary J. Lublin, Esq., P.O. Box 3146, Orlando, Florida 32802-3146.

/s/John D. Eaton

John D. Eaton