

**United States Bankruptcy Court  
Western District of Wisconsin**

Cite as: [Unpublished]

**Jacqueline J. Haseker, Plaintiff, v.  
Great Lakes Higher Education Corporation, Defendant**  
(In re Jacqueline J. Haseker, Debtor)  
Bankruptcy Case No. 92-53028-7, Adv. Case. No. A92-5239-7

United States Bankruptcy Court  
W.D. Wisconsin, Eau Claire Division

April 16, 1993

William J. Joost, for the debtor.  
Lloyd J. Blaney, for the defendant.

Thomas S. Utschig, United States Bankruptcy Judge.

**MEMORANDUM OPINION, FINDINGS OF FACT,  
AND CONCLUSIONS OF LAW**

This matter is before the Court on an adversary proceeding filed by the plaintiff-debtor, Jacqueline J. Haseker. The debtor seeks to discharge various student loan obligations in her bankruptcy. William J. Joost represents the debtor; the defendant is the Great Lakes Higher Education Corporation and it is represented by Lloyd J. Blaney.

The facts can be briefly summarized. From 1981 to 1985, the debtor incurred approximately \$10,350 in various student loan obligations. There were only three payments made on these loans. Two were by means of federal tax refund intercepts of \$628.13 and \$638.43 on March 6, 1991, and April 3, 1992, respectively. The third was in the amount of \$77.26 and it was by means of a garnishment of the debtor's wages on October 20, 1992. The balance due on the debtor's student loans was \$15,359.65 as of September 23, 1992. Interest is accruing at a rate of 9%. The parties have stipulated to these and other facts and have consented to allow the Court to decide this matter without hearing or oral argument.

The debtor seeks to discharge her student loan obligations on the basis of 11 U.S.C. § 523(a)(8)(B). That provision provides:

§ 523. Exceptions to discharge

(a) A discharge under section 727, 1141, 1228(a), 1228(b), or 1328(b) of this title does not discharge an individual debtor from any debt --

...

(8) for an educational benefit overpayment or loan made, insured or guaranteed by a governmental unit, or made under any program

funded in whole or in part by a governmental unit or nonprofit institution, or for any obligation to repay funds received as an educational benefit, scholarship or stipend, unless --

(B) excepting such debt from discharge under this paragraph will impose an undue hardship on the debtor and the debtor's dependents.

See 11 U.S.C. § 523(a)(8) (West 1993). The debtor alleges that failure to discharge her student loan obligations would constitute an undue hardship for her.

As an initial proposition, "[b]ankruptcy courts are in general agreement that in student loan dischargeability litigation based on undue hardship, the burden of proof is upon the debtor . . . ." See Connecticut Student Loan Foundation v. Keenan (In re Keenan), 53 B.R. 913, 916 (Bankr. D. Conn. 1985). As to the "undue hardship" language, courts have generally held that it "[c]ontemplates unique and extraordinary circumstances. Mere financial adversity is insufficient, for that is the basis of all petitions in bankruptcy." In re Keenan, 53 B.R. 913, 918 (Bankr. D. Conn. 1985), citing with approval Fischer v. State University of New York (In re Fischer), 23 B.R. 432, 433 (Bankr. W.D. Ky. 1982); Georgia Higher Education Assistance Corp. v. Densmore, 8 B.R. 308, 309 (Bankr. N.D. Ga. 1979). The undue hardship determination is discretionary with the bankruptcy judge. See 3 Collier on Bankruptcy § 523.18 at 152 (15th ed. 1992).

Turning to the facts of this case, the debtor's Schedule J contained the following list of her current monthly expenditures:

|                      |              |
|----------------------|--------------|
| Rent                 | \$ 350.00    |
| Electricity and heat | 200.00       |
| Water and sewer      | 25.00        |
| Telephone            | 35.00        |
| Garbage              | 9.50         |
| Food                 | 120.00       |
| Laundry/dry cleaning | 40.00        |
| Transportation       | <u>40.00</u> |
| Total:               | \$ 819.50    |

In her complaint and in subsequent answers to interrogatories, the debtor indicated that she is currently employed as a checker/cashier in a grocery store. She earns \$4.80 per hour, which amounts to a gross income of less than \$500 per month. Prior jobs included various minimum-wage part-time jobs and a job at the Howard Young Medical Center, Woodruff, paying from \$5.21 to \$6.46 per hour. The debtor is 57 years old, unmarried and has no dependents. She owns no real property nor does she own a car. She has a high school diploma and, although she attended college and technical school, she did not receive a degree.

On the basis of the aforementioned facts, which were uncontroverted by the defendant, the Court finds that it would indeed constitute an undue hardship for the debtor if her student loans were not discharged. As noted, the debtor has monthly expenditures totaling over \$800 and monthly gross income of less than \$500. The Court has examined the debtor's monthly expenditures and finds them to be

reasonable. The debtor's estimates may even be low, since there is nothing budgeted for items such as medical or dental expenses, insurance, or recreation and entertainment. Nor do the debtor's future prospects look good -- given her age and her lack of a college degree.

The Court thus finds that, pursuant to 11 U.S.C. § 523(a)(8)(B), excepting the debtor's student loans from discharge would constitute an undue hardship on the debtor. Accordingly, the debtor's student loan debt of \$15,359.65 is discharged.

This decision shall constitute findings of fact and conclusions of law pursuant to Bankruptcy Rule 7052 and Rule 52 of the Federal Rules of Civil Procedure.