

UNITED STATES BANKRUPTCY COURT
DISTRICT OF MINNESOTA
FOURTH DIVISION

In re:

JANE DOE,

Bankruptcy No. 00-31234

Debtor,

JANE DOE,

Plaintiff,

Adversary No. 00-1234

vs.

EDUCATIONAL CREDIT MANAGEMENT
CORPORATION and DEPARTMENT OF
HEALTH and HUMAN SERVICES,

Defendants.

**PLAINTIFF'S PROPOSED
FINDINGS OF FACT AND
CONCLUSIONS OF LAW**

This matter came before the Court for trial on July 1, 2001. Appearances were as noted in the record.

The Court made the Following Findings of Fact:

1. Plaintiff is an individual and the Debtor in the above-entitled case under chapter 7 of the Bankruptcy Code and discharge was entered on August 30, 2000.
2. Plaintiff has a dependent daughter, age 10.
3. Defendant Educational Credit Management Corp. ("ECMC") holds a consolidated loan which it obtained from Great Lakes Higher Education Corporation, in the amount of Thirty-Five Thousand Three Hundred Twenty-Two and 81/100 Dollars (\$35,322.81). Plaintiff owed ECMC, inclusive of costs, interest and attorneys' fees, Sixty-One Thousand Eight Hundred Sixty-Nine and 83/100 Dollars (\$61,869.83) as of June 4, 2001.

4. Defendant United States Department of Health and Human Services (“HHS”) holds the rights, title and interest to three notes executed by Plaintiff and originally guaranteed by the Health Education Assistance Loan Program. Plaintiff owed HHS Fourteen Thousand Six Hundred Ninety-Seven and 91/100 Dollars (\$14,697.91), including interest as of December 1, 2000.
5. Plaintiff obtained the above-described loans in order to attend Spinal College of Chiropractic in Yourtown, Minnesota, and used the loans strictly for educational purposes.
6. In 1986, Plaintiff completed chiropractic school at Spinal Chiropractic.
7. Plaintiff’s student loans are a debt incurred for an education a benefit overpayment or loan made, insured or guaranteed by a governmental unit, or made under a program funded in whole or in part by a governmental unit or nonprofit institution, or for an obligation to repay funds received as an educational benefit, scholarship or stipend.
8. More than seven (7) years have expired since the first date when repayment of Plaintiff’s student loans was required, exclusive of any period after such date in which the obligation to pay installments on the loan is suspended.
9. The Secretary of Health and Human Services has not waived the Secretary’s rights to apply subsection (f) of §292f to the borrower and the debt Plaintiff seeks to be discharged.
10. Plaintiff worked as a chiropractor on and off from 1986 to 1995.

11. In or about 1993, Plaintiff began to feel fatigued and depressed. Plaintiff also began to lose her mental faculties, such as forgetting her medical training and losing her analytical thought processes.
12. Plaintiff eventually quit working in 1995 because of her illness and moved into her parents' basement.
13. Plaintiff began meeting with doctors in 1996, and in 1997 Plaintiff was prescribed medication that began to effectively treat her condition.
14. Despite the improvement in her condition, Plaintiff continues to have difficulty with her memory and with fatigue.
15. Plaintiff currently works at Yourtown Community College and makes approximately \$14,000.00 per year.
16. Plaintiff's monthly income is approximately \$1,150.00 and her monthly expenses total roughly the same amount.
17. Excepting this debt from discharge under §523(a)(8) will impose an undue hardship on Plaintiff and her dependent daughter.
18. Excepting this debt from discharge under §292f(g) would be unconscionable.

The Court made the following Findings of Law:

1. Plaintiff is entitled to a discharge in the following manner:
 - ___ discharge under §523(a)(8);
 - ___ complete discharge under §292f(g)
 - ___ discharge of \$_____ of the debt to HHS under §292f(g)
2. The clerk is ordered to issue Plaintiff's discharge accordingly.

Dated: _____, 2001

Dennis D. O'Brien
United States Bankruptcy Judge