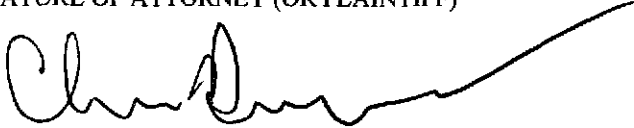


<b>ADVERSARY PROCEEDING COVER SHEET</b> (Instructions on Reverse)		<b>ADVERSARY PROCEEDING NUMBER</b> (Court Use Only)
<b>PLAINTIFFS</b> Christian Behrend Doscher	<b>DEFENDANTS</b> Education Credit Management Corporation	
<b>ATTORNEYS</b> (Firm Name, Address, and Telephone No.)  none (pro se)	<b>ATTORNEYS</b> (If Known)	
<b>PARTY</b> (Check One Box Only) <input checked="" type="checkbox"/> Debtor <input type="checkbox"/> U.S. Trustee/Bankruptcy Admin <input type="checkbox"/> Creditor <input type="checkbox"/> Other <input type="checkbox"/> Trustee	<b>PARTY</b> (Check One Box Only) <input type="checkbox"/> Debtor <input type="checkbox"/> U.S. Trustee/Bankruptcy Admin <input checked="" type="checkbox"/> Creditor <input type="checkbox"/> Other <input type="checkbox"/> Trustee	
<b>CAUSE OF ACTION</b> (WRITE A BRIEF STATEMENT OF CAUSE OF ACTION, INCLUDING ALL U.S. STATUTES INVOLVED) Full discharge of all student loans based on undue hardship and disability. 11 U.S.C. § 523(a)(8)		
<b>NATURE OF SUIT</b> (Number up to five (5) boxes starting with lead cause of action as 1, first alternative cause as 2, second alternative cause as 3, etc.)		
<b>FRBP 7001(1) – Recovery of Money/Property</b> <input type="checkbox"/> 11-Recovery of money/property - §542 turnover of property <input type="checkbox"/> 12-Recovery of money/property - §547 preference <input type="checkbox"/> 13-Recovery of money/property - §548 fraudulent transfer <input type="checkbox"/> 14-Recovery of money/property - other  <b>FRBP 7001(2) – Validity, Priority or Extent of Lien</b> <input type="checkbox"/> 21-Validity, priority or extent of lien or other interest in property  <b>FRBP 7001(3) – Approval of Sale of Property</b> <input type="checkbox"/> 31-Approval of sale of property of estate and of a co-owner - §363(h)  <b>FRBP 7001(4) – Objection/Revocation of Discharge</b> <input type="checkbox"/> 41-Objection / revocation of discharge - §727(c),(d),(e)  <b>FRBP 7001(5) – Revocation of Confirmation</b> <input type="checkbox"/> 51-Revocation of confirmation  <b>FRBP 7001(6) – Dischargeability</b> <input type="checkbox"/> 66-Dischargeability - §523(a)(1),(14),(14A) priority tax claims <input type="checkbox"/> 62-Dischargeability - §523(a)(2), false pretenses, false representation, actual fraud <input type="checkbox"/> 67-Dischargeability - §523(a)(4), fraud as fiduciary, embezzlement, larceny <p style="text-align: center;">(continued next column)</p>	<b>FRBP 7001(6) – Dischargeability (continued)</b> <input type="checkbox"/> 61-Dischargeability - §523(a)(5), domestic support <input type="checkbox"/> 68-Dischargeability - §523(a)(6), willful and malicious injury <input checked="" type="checkbox"/> 63-Dischargeability - §523(a)(8), student loan <input type="checkbox"/> 64-Dischargeability - §523(a)(15), divorce or separation obligation (other than domestic support) <input type="checkbox"/> 65-Dischargeability - other  <b>FRBP 7001(7) – Injunctive Relief</b> <input type="checkbox"/> 71-Injunctive relief – imposition of stay <input type="checkbox"/> 72-Injunctive relief – other  <b>FRBP 7001(8) Subordination of Claim or Interest</b> <input type="checkbox"/> 81-Subordination of claim or interest  <b>FRBP 7001(9) Declaratory Judgment</b> <input type="checkbox"/> 91-Declaratory judgment  <b>FRBP 7001(10) Determination of Removed Action</b> <input type="checkbox"/> 01-Determination of removed claim or cause  <b>Other</b> <input type="checkbox"/> SS-SIPA Case – 15 U.S.C. §§78aaa <i>et seq.</i> <input type="checkbox"/> 02-Other (e.g. other actions that would have been brought in state court if unrelated to bankruptcy case)	
<input type="checkbox"/> Check if this case involves a substantive issue of state law	<input type="checkbox"/> Check if this is asserted to be a class action under FRCP 23	
<input checked="" type="checkbox"/> Check if a jury trial is demanded in complaint	Demand \$11,000	
Other Relief Sought relief from IRS tax offset		

BANKRUPTCY CASE IN WHICH THIS ADVERSARY PROCEEDING ARISES		
NAME OF DEBTOR Christian Doscher		BANKRUPTCY CASE NO. 12-44213
DISTRICT IN WHICH CASE IS PENDING Western District	DIVISION OFFICE [REDACTED]	NAME OF JUDGE BDL
RELATED ADVERSARY PROCEEDING (IF ANY)		
PLAINTIFF	DEFENDANT	ADVERSARY PROCEEDING NO.
DISTRICT IN WHICH ADVERSARY IS PENDING	DIVISION OFFICE	NAME OF JUDGE
SIGNATURE OF ATTORNEY (OR PLAINTIFF) 		
DATE 9-15-15	PRINT NAME OF ATTORNEY (OR PLAINTIFF) Christian Doscher	

**INSTRUCTIONS**

The filing of a bankruptcy case creates an "estate" under the jurisdiction of the bankruptcy court which consists of all of the property of the debtor, wherever that property is located. Because the bankruptcy estate is so extensive and the jurisdiction of the court so broad, there may be lawsuits over the property or property rights of the estate. There also may be lawsuits concerning the debtor's discharge. If such a lawsuit is filed in a bankruptcy court, it is called an adversary proceeding.

A party filing an adversary proceeding must also must complete and file Form 104, the Adversary Proceeding Cover Sheet, unless the party files the adversary proceeding electronically through the court's Case Management/Electronic Case Filing system (CM/ECF). (CM/ECF captures the information on Form 104 as part of the filing process.) When completed, the cover sheet summarizes basic information on the adversary proceeding. The clerk of court needs the information to process the adversary proceeding and prepare required statistical reports on court activity.

The cover sheet and the information contained on it do not replace or supplement the filing and service of pleadings or other papers as required by law, the Bankruptcy Rules, or the local rules of court. The cover sheet, which is largely self-explanatory, must be completed by the plaintiff's attorney (or by the plaintiff if the plaintiff is not represented by an attorney). A separate cover sheet must be submitted to the clerk for each complaint filed.

**Plaintiffs and Defendants.** Give the names of the plaintiffs and defendants exactly as they appear on the complaint.

**Attorneys.** Give the names and addresses of the attorneys, if known.

**Party.** Check the most appropriate box in the first column for the plaintiffs and the second column for the defendants.

**Demand.** Enter the dollar amount being demanded in the complaint.

**Signature.** This cover sheet must be signed by the attorney of record in the box on the second page of the form. If the plaintiff is represented by a law firm, a member of the firm must sign. If the plaintiff is pro se, that is, not represented by an attorney, the plaintiff must sign.

FILED

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UNITED STATES BANKRUPTCY COURT

CHRISTIAN DOSCHER,

Debtor,

vs.

EDUCATION CREDIT MANAGEMENT

CORPORATION,

Creditor

Case No. 12-44213-BDL

PLAINTIFF'S  
ADVERSARY COMPLAINT  
FOR  
CHAPTER 7 BANKRUPTCY

**Jurisdiction**

1. This is a chapter 7 bankruptcy proceeding, the Court has jurisdiction under 28 U.S.C. §§ 1334 and 157(b)(2)(I).

**Parties**

2. Christian Doscher is a single individual, no dependants, and is Plaintiff in this action.

3. Education Credit Management Corporation ('ECMC') is a corporation and manages Plaintiff's currently outstanding student loans and is the Defendant.

Plaintiff's Adversary Complaint - 1

Facts

1  
2 4. Courts have a duty to construe *pro se* pleadings liberally, including *pro se* motions.

3 [REDACTED]  
4 5. In 1994, Plaintiff took out several student loans to attend the [REDACTED]  
5 "Business Computer Training Institute", from which he graduated that same year. The loans  
6 total more than \$10,000, are currently in default and have been since at least 2007, and Plaintiff  
7 seeks full discharge of them by reason of undue hardship. 11 U.S.C. § 523(a)(8)(B).  
8

9 6. In documents sent from ECMC to Plaintiff dated 3/24/15, the projected balance of the  
10 loans as of that date was given as "\$10,624.01. The total outstanding balance of the loans is  
11 currently \$10,677.50

12 7. In August of 2008, Plaintiff was approved for full Social Security Disability Benefits  
13 ('SSDB') due to medical diagnosis of co-morbid emotional disorders (borderline personality  
14 disorder and functional anxiety disorder), and began at that time to receive approximately \$760  
15 per month in SSD benefits.  
16

17 8. In 2011, Plaintiff was re-certified for the same benefits by a different physician, and thus  
18 has continued to receive maximum SSD cash benefits without interruption between September  
19 2008 and September 2015.

20 9. Plaintiff's last job was as a part-time commercial truck driver with a company in  
21 [REDACTED] He was fired from that job in August of 2010, and has not been employed afterward.  
22 Since August 2010, Plaintiff has subsisted on no other income than SSDB and food stamps.  
23

24 10. Plaintiff has made good-faith efforts to repay on his school loans by a) seeking and  
25 receiving various forbearance and deferment options between 1994 and 2008, and b) having

1 between \$30 and \$50 deducted per month from his social security cash benefit to pay on these  
2 loans, which offset began in April 2013 and continues in the present (i.e., IRS offset). Said  
3 offsets were paid on the loans on or before the 3<sup>rd</sup> of every month between April 2013 and  
4 October 2015.

5 11. Plaintiff has also been diagnosed with sciatica, which of course is exacerbated by long  
6 periods of sitting, for which reason it is highly unlikely that he could ever again drive  
7 commercial trucks long-haul.  
8

9  
10 **Fulfillment of the 3 Brunner-prongs**

11 12. Plaintiff must fulfill the 3 Brunner-prongs by a preponderance of the evidence. *Nys v.*

12 [REDACTED]  
13 [REDACTED]  
14 13. First, the debtor must establish "that she cannot maintain, based on current income and  
15 expenses, a 'minimal' standard of living for herself and her dependents if forced to repay the  
16 loans." *Brunner, 831 F.2d at 396*. The court noted that this portion of the test "comports with  
17 common sense" and had already "been applied frequently as the minimum necessary to establish  
18 'undue hardship.'" *Id.* (citing *In re Bryant, 72 B.R. 913, 915 (Bankr.E.D.Pa.1987)*).  
19

20 14. In measuring income and expenses, the test is whether it would be "'unconscionable' to  
21 require the debtor to take steps to earn more income or reduce her expenses" in order to make  
22 payments under a given repayment schedule. [REDACTED]  
23 [REDACTED]  
24 [REDACTED]

25  
Plaintiff's Adversary Complaint - 3 [REDACTED]

1 15. As stated earlier in this Complaint, Plaintiff has been diagnosed by two different  
2 physicians since 2008 has having co-morbid emotional disorders preventing him from obtaining  
3 gainful and sustained employment, resulting in him qualifying for and receiving full social  
4 security disability benefits, and in fact Plaintiff has not been employed at all since August 2010.  
5 So yes, it would be unconscionable to require the debtor to earn more income. Plaintiff has no  
6 income whatsoever beyond SSD and food stamps.

7  
8 16. After the IRS offset mentioned above, the money left in Plaintiff's bank account is \$750.  
9 His approximate monthly expenses after that point are as follows:

10 Rent: 550  
11 Electric: 30 (increases in the winter due to baseboard-heater use)  
12 Phone: 25  
13 Gas (car): 40  
14 Total: \$645, when subtracted from 750, leaves \$105

15 17. Plaintiff's monthly food stamp allotment for the last year has been approximately \$190.  
16 This obviously is not enough for a single person to eat three healthy meals per day for one  
17 month. The IRS National Standard for food alone is \$301 per month. See IRS National  
18 Standards: Food, Clothing and Other Items, available at [http://www.irs.gov/Businesses/ Small-  
19 Businesses-&Self-Employed/National-Standards:-Food,-Clothing-and-Other-Items](http://www.irs.gov/Businesses/Small-Businesses-&Self-Employed/National-Standards:-Food,-Clothing-and-Other-Items).

20 18. From Plaintiff's \$105 in cash leftover, he spends about \$75 each month to supplement his  
21 food stamps, leaving him with \$30 in cash, which obviously is not enough to cover his other  
22 monthly costs that are a legitimate part of a "minimal standard of living", but which he has had  
23 to severely diminish or cut out entirely, such as

24 Toiletries - \$25  
25 auto-insurance - \$55  
clothes - \$25  
medicine - \$10

Plaintiff's Adversary Complaint - 4

1 car gas/maintenance - \$40  
2 car tabs (\$4 saved per month saved = \$50 per year)  
3 household cleaning supplies, etc. - \$10

4 totaling \$169, which, when subtracted from the remaining \$30, leaves a deficit of -\$139. Hence,  
5 Plaintiff's current income does not permit him to enjoy all the benefits of a "minimal" standard  
6 of living.

7 19. While a bankruptcy court may consider the IRS Standards as one piece of evidence in  
8 relation to its first prong analysis, [citation omitted], it should not [be used as] the sole measure  
9 of what is necessary to maintain a minimal standard of living." *In re Howe*, 319 B.R. 886, 892-93  
10 (B.A.P. 9th Cir. 2005). So ECMC is free to argue that Doscher could go on a diet, so as to not  
11 need that extra \$75 to supplement his food stamps, so that he can have an extra \$75 to spend  
12 each month paying back the loan. Aside from how gratuitously insulting that is to a debtor  
13 whose severely minimized expenses still go over his below-poverty income, the [REDACTED] does  
14 not see the increase of even a few hundred dollars per month as sufficient to justify denial of  
15 school loan discharge. [REDACTED] Moreover, the IRS  
16 standards are not wholly rejected just because they are not to be the sole basis of hardship  
17 determination. [REDACTED]

18 20. ECMC will likely argue bad faith on the grounds that Plaintiff has not participated in any  
19 recent income-contingent repayment plan. This would be a faulty argument for number of  
20 reasons: a) he *did* do this between 1994 and 2008 and received forbearance and deferment in  
21 that period; b) [REDACTED] stands for the  
22 proposition that failure to participate in such program (there, it was the Income Contingent  
23 Repayment Loan Program (ICRP)) did not achieve the same result as Chapter 7 "fresh start" and  
24  
25

Plaintiff's Adversary Complaint - 5 [REDACTED]

1 so such failure to participate in such program was not deemed a sign of bad faith; c) as will be  
2 shown below, income-contingent repayment plans mean nothing to Plaintiff, whose current  
3 living expenses exceed his already-below poverty income; d) Plaintiff did try between 2012 and  
4 2014 to obtain discharge of his loans through a program offered by ECMC for discharge based  
5 on permanent disability, but they did not respond to his mailed-in application until the law had  
6 changed and that type of relief was no longer offered.

7  
8 21. The undue hardship standard is high, but does not require showing abject poverty. The  
9 Bankruptcy Code does not require that the debtor "live in abject poverty . . . before a student loan  
10 may be discharged." *In re Mallinckrodt*, 260 B.R. 892, 900 (Bankr.S.D.Fla. 2001) (quoting *In re*  
11 *Faish*, 72 F.3d 298, 305 (3rd Cir.1995)). Satisfying the burden of proof on this element requires  
12 "more than a showing of tight finances," but stops short of "utter hopelessness." *In re*

13 [REDACTED]  
14 22. One [REDACTED] Court found that minimizing living expenses demonstrated good faith.

15 [REDACTED]  
16 [REDACTED]  
17 [REDACTED] It should be clear that Plaintiff's monthly expenses are  
18 insufficient to pay for things that would be a legitimate part of a minimal standard of living, such  
19 as car maintenance/insurance, food, winter heating bills, toiletries, medicine, etc. So he has  
20 minimized his expenses in a severe way, even if not in the most severe possible way.

21 23. In [REDACTED] student loans were  
22 discharged for persons living below poverty level despite the fact that their monthly expenses  
23 included obvious non-essentials like newspaper and cable tv subscriptions. It would be  
24 unconscionable for Defendant to suggest that Plaintiff could have more money leftover each  
25

Plaintiff's Adversary Complaint - 6  
[REDACTED]



1 month to pay school loans if he used less electricity, or ate less than 2 meals per day, or moved  
2 to a cheaper place to live, etc. "Minimal standard of living" does not mean the lowest form of  
3 civilized life.

4 24. Finally, one more example of conditions or "additional circumstances" contributing to  
5 undue hardship is the poor quality of the education paid for by the school loan [REDACTED]  
6 [REDACTED]. Plaintiff graduated the Business Computer Training Institute  
7 program in the latter half of 1994, however, he received \$2700 in a class-action lawsuit brought  
8 against BCTI in 2007 for the poor quality of its educational program and fraud related thereto.  
9

10 25. "To discharge any of their student loan debt to the Government, Debtors must prove by a  
11 preponderance of the evidence that, for a substantial portion of the loan repayment period, they  
12 would not be able to maintain even a "minimal" standard of living if forced to pay that debt." *In*  
13 [REDACTED]

14 26. To satisfy the second prong of the Brunner test Debtors must prove that their state of  
15 affairs is likely to persist. Plaintiff's co-morbid emotional disorders, on the basis of which the  
16 Social Security Administration has twice diagnosed him as permanently unable to earn  
17 substantial income, is a legitimate basis upon which to conclude that Plaintiff's financial  
18 condition is likely to persist. [REDACTED] the plaintiff's psychiatric  
19 disorder was believed to be permanent, sufficiently that his economics degree did not pose  
20 significant likelihood of future employment prospects. Plaintiff has no degree, and recently lost  
21 his commercial truck driver's license, so that he cannot work as a truck driver anymore without  
22 paying truck school tuition again, so as to prepare for and take the required written test and  
23 driving test.  
24  
25

Plaintiff's Adversary Complaint - 7 [REDACTED]

1 27. Plaintiff has also been diagnosed with sciatica, which of course is exacerbated by long  
2 periods of sitting, for which reason it is highly unlikely that he could ever again drive  
3 commercial trucks long-haul.

4 28. The [REDACTED] does not require mental disability to devastate all possibility of  
5 employment before the disability can be seen as an indicator that the undue hardship is 'likely to  
6 persist'. The [REDACTED] has granted a discharge of the debtors' student loans despite one of the  
7 debtors being capable of holding a job for at least 5 months at a time. [REDACTED]

8 [REDACTED] Plaintiff has been entirely unemployed since August 2010, so his  
9 emotional disorders negatively impact his ability to increase his income, even more than a  
10 comparable emotional disorder did for the *Pena*-debtor. In [REDACTED]  
11 [REDACTED] a Debtor was granted discharge despite her ability to work 16 hours per week.

12 29. In *Thomsen, supra*, Plaintiff Kim did not have any mental condition, and had an  
13 associate's degree that at least allowed her to become employed at manual labor. Yet this bare  
14 possibility of future employment did not convince the Court that her financial poverty was likely  
15 to change. Again Plaintiff Doscher in the instant case has no degree, and as mentioned above,  
16 has sciatica which prevents him from safely doing manual labor-type jobs.

17 30. ECMC may say Plaintiff must show exceptional circumstances, and this is true; what is  
18 not true is that exceptional circumstances require a showing of physical or mental disability of  
19 extreme degrees that require assisted living: "[REDACTED] have clarified that the  
20 circumstances need be exceptional only in the sense that they demonstrate insurmountable  
21 barriers to the debtor's financial recovery and ability to repay the student loan now and for a  
22 substantial portion of the loan's repayment period. *Id.* at 444, *aff'd*, 446 F.3d at 941." C [REDACTED]

23 Plaintiff's Adversary Complaint - 8 [REDACTED]

1 [REDACTED] It should be clear that two medical certifications qualifying Plaintiff for full  
2 social security disability on the basis of co-morbid emotional disorders, with expectation that  
3 they will disable him for life, qualifies as an 'insurmountable barrier' to debtor's financial  
4 recovery now and in the future.

5 31. The third prong requires that the debtor has made good faith efforts to repay the student  
6 loans [REDACTED] Many courts of appeal have held that  
7 a debtor's "effort to seek out loan consolidation options that make the debt less onerous is an  
8 important component of the good faith inquiry," as it "illustrates that the debtor takes her loan  
9 obligations seriously and is doing her utmost to repay them despite her unfortunate  
10 circumstances." *Educ. Credit Mgmt. Corp. v. Frushour (In re Frushour)*, 433 F.3d 393, 402 (4th  
11 Cir.2005) (citing *Alderete v. Educ. Credit Mgmt. Corp. (In re Alderete)*, 412 F.3d 1200, 1206  
12 (10th Cir. 2005). Plaintiff has made good-faith efforts to repay on his school loans by a) seeking  
13 and receiving various forbearances and deferments between 1994 and 2008, and b) having  
14 between \$30 and \$50 deducted per month from his social security cash benefit to pay on these  
15 loans, which offset began in April 2013 and continues in the present (i.e., IRS offset). Said  
16 offsets were paid on the loans on or before the 3rd of every month between April 2013 and  
17 October 2015. Good faith *attempts* to pay and *actual* payments have thus occurred.

20 32. Even if Plaintiff had never sought to enter a repayment plan directly with Creditor, there  
21 is no per se rule saying a debtor cannot show good faith where he or she has not enrolled in an  
22 income-contingent repayment program. *Education Credit Management Corp., v. Mosley*, 494  
23 F.3d 1320, 1327 (11th Cir. 2007). And it makes little sense for a person living below poverty to  
24 sign up for a loan-repayment plan when, as demonstrated above, Plaintiff does not have enough  
25

Plaintiff's Adversary Complaint - 9

1 monthly income leftover after paying monthly expenses for a bare minimum standard of living,  
2 to pay other debts.

3 33. In the [REDACTED] suit under a holding of the Bankruptcy Appellate Panel ("BAP"), a  
4 *partial* discharge of student loans is not appropriate under § [REDACTED]

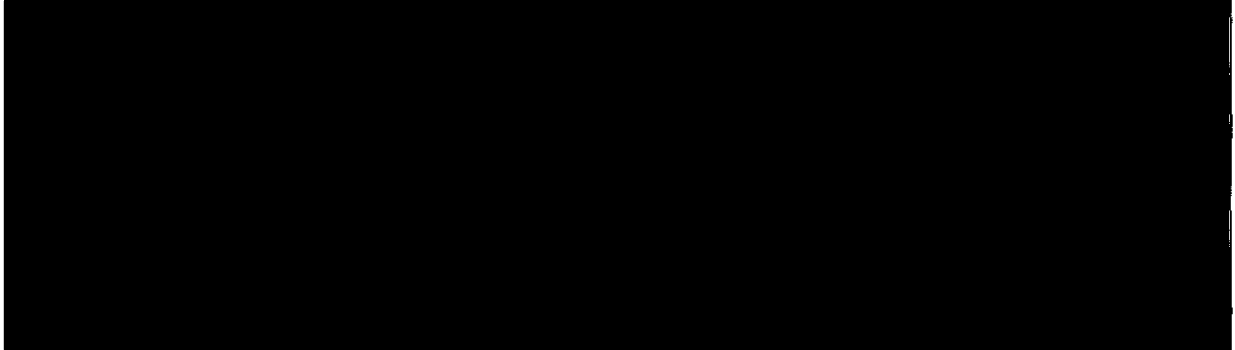
5 [REDACTED]  
6 [REDACTED]  
7 [REDACTED]  
8 34. If the Court finds partial discharge is a possibility, then partial discharge is not usually  
9 granted unless there is a finding that Debtor's financial situation is likely to improve in the  
10 future. In *Reed v. SLM Corp. (In re Reed)*, 2005 WL 1398479 (Bankr.D.Vt. June 13, 2005), the  
11 Court approved a partial discharge based on the fact that the debtor's future prospects suggested  
12 that she might be able to repay a portion of her student loan, because her net disposable income  
13 was "likely to increase in the near future to a level sufficient for her to make a meaningful  
14 repayment." *Id. at* \*4. By contrast, for the reasons set forth above, Plaintiff's income is not  
15 likely to increase in the foreseeable future.

16 [REDACTED]  
17 35. In the [REDACTED] "certainty of hopelessness" only means exceptional circumstances,  
18 proven by preponderance of the evidence, *strongly suggestive* of continuing inability to repay  
19 over an extended period of time: [REDACTED] "Strongly suggestive" is quite  
20 a bit less than "inevitably guaranteed". Thus lack of inevitable guarantee of future inability to  
21 reply is not fatal to a discharge petition.

22 36. Plaintiff has sued in civil court a private resident of Florida for libel, which case is  
23 currently pending in [REDACTED] (i.e., *Doscher v. Holding*, [REDACTED] *Superior*  
24 *Court No. 15-2-01352-9*), and thus expects to win a jury-determined award of damages for libel  
25

Plaintiff's Adversary Complaint - 10 [REDACTED]

1 and emotional distress. ECMC will seize on this to argue that any jury award should be applied  
2 to the school loans. However, Courts have found that Debtors applying an anticipated lump sum  
3 to expenses arising in their private life instead of to pay on the school loan, is acceptable and  
4 cannot show lack of good faith:



5  
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10 See also *Marcotte v. Brazos Higher Educ. Servs. Corp. (In re Marcotte)*, 455 B.R. 460, 473 n.20  
11 (*Bankr. D. S.C. 2011*) (citing *Pena*, 155 F.3d at 1114 (where Ninth Circuit Court of Appeals held  
12 that the debtors satisfied the good-faith prong even though they received a post-petition lump-  
13 sum payment for past-due disability and used it to purchase an approximately 20-year-old  
14 car and pay other bills rather than pay the student loan debt)).

15  
16 37. ECMC may argue that the rest of [REDACTED] says that where Plaintiff is expected to  
17 receive lump-sum payments, only a partial discharge is appropriate. But in this Mitchell is  
18 distinguishable, as Mitchell had some ability to work, enough to work 16 hours a week. By  
19 contrast, the facts already established above (Plaintiff's below-poverty income, which doesn't  
20 meet his basic living needs, his minimizing of living expenses far below a normal minimal  
21 standard of living level, and his inability to obtain work in the future due to mental disability),  
22 indicate, at least by preponderance of evidence, that Plaintiff would need to retain any award  
23 from the jury in *Doscher v. Holding*, to supplement his monthly income, for a period to extend  
24 into the foreseeable future so that he can pay his minimal living expenses in a timely fashion

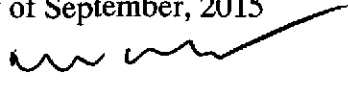
25 Plaintiff's Adversary Complaint - 11 [REDACTED]

1 each month. It is unconscionable to take away Plaintiff's only source of income which is his  
2 only hope of supplementing his poverty-level income and so to actually live at a minimal  
3 standard. Plaintiff's only automobile is 19 years old, presently needs major work as might be  
4 expected (shocks, brakes, tires, uv-joint replacement, transmission rebuild, ignition replacement,  
5 electrical system overhaul, new radiator or radiator flush, heater does not work [needs heater-  
6 core replacement], etc), and he cannot legally drive it without insurance, which would run him  
7 about \$55 per month given that he hasn't had insurance since 2011 and about 2 years ago  
8 received an infraction for going 5 mph over the speed limit in an [REDACTED] school zone.  
9 Plaintiff's clothes are wearing out and haven't been replaced since 2009. And if Plaintiff  
10 needed hospitalization due to his disorders, social security would use some of his monthly SSD  
11 cash benefit to pay part of the resulting hospital bill, which of course reduces his SSD to the  
12 point of being insufficient to pay rent or other typical monthly bills, that is, if the future jury-  
13 award in *Doscher v. Holding* be given to Creditor. "Only the portion that results in undue  
14 hardship should be discharged." [REDACTED] For all the  
15 above-cited reasons, any portion of the school loans that Doscher would have to pay would  
16 create undue hardship due to his already below-poverty status and unlikelihood of being able to  
17 increase his income in the future. Hence *Mitchell* is distinguishable, and a partial discharge  
18 would still create undue hardship for Plaintiff Doscher, since any civil damages award from a  
19 jury would need to be retained by Doscher to supplement his monthly income to avoid staying in  
20 the budget deficit disclosed earlier in this Complaint.  
21  
22  
23  
24  
25

Plaintiff's Adversary Complaint - 12 [REDACTED]

1 38. I, Christian Doscher, the Plaintiff/Debtor in the above entitled matter, certify under  
2 penalty of perjury and the laws of the United States that the factual allegations contained in this  
3 Adversary Complaint are true and accurate to the best of my knowledge.  
4

5 Dated this 15<sup>th</sup> day of September, 2015

6 By:   
7 CHRISTIAN DOSCHER,  
8 pro se  
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Plaintiff's Adversary Complaint - 13

