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03-2041-C

C. ADVERSARY
PLAINTIFF: Gayle McLaughlin
DEBTOR: Gayle McLaughlin
DEFENDANT: Afsa Campus Loans Et Al
JUDGE: Hon. C. Klein

1 PAUL J. MANSDORF (SBN 136324)
2 Attorney at Law
3 3445 San Pablo Dam Road
4 El Sobrante, CA 94803
5 (510) 262 9992

FILED 02/03/03 - 03:21 PM
CLERK. U.S. BANKRUPTCY COURT
EASTERN DISTRICT OF CALIFORNIA
SACRAMENTO DIVISION mans

4 Attorney for Debtor
5 GAYLE MCLAUGHLIN

6 UNITED STATES BANKRUPTCY COURT

7 EASTERN DISTRICT OF CALIFORNIA, SACRAMENTO DIVISION

8 Case No: 01-30841-C-7

9 GAYLE MCLAUGHLIN,
10 (331-46-6907)

Adversary Proceeding No:

11 Debtor.

**COMPLAINT TO DETERMINE
DISCHARGEABILITY OF STUDENT LOAN
OBLIGATIONS AND FOR
DECLARATORY RELIEF**

12 GAYLE MCLAUGHLIN

[11 U.S.C. §523(a)(8)]

13 Plaintiff,

14 vs.

15 AFSA CAMPUS BASED LOANS,
16 AMERICAN STUDENT ASSISTANCE,
17 RHODE ISLAND HIGHER EDUCATION
18 ASSISTANCE AUTHORITY, ILLINOIS
19 STUDENT ASSISTANCE COMMISSION,
20 EDUCATIONAL CREDIT MANAGEMENT
21 CORPORATION, SLM CORPORATION,
22 U.S. DEPARTMENT OF EDUCATION,

23 Defendants.

24 The complaint of plaintiff, GAYLE McLAUGHLIN (hereinafter
25 "Plaintiff"), respectfully alleges:

26 **JURISDICTION AND VENUE**

27 1) This adversary proceeding is brought pursuant to 11
28 U.S.C. §523(a)(8), and Federal Rule of Bankruptcy Procedure 7001.

2) This court has jurisdiction over this adversary
proceeding pursuant to 28 U.S.C. §§1334(b), 157 and 151. Venue
is proper pursuant to 28 U.S.C. §1409.

1 transferred, and has named as defendants those parties which she
2 is informed and believes that she is indebted to at this time.

3 10) Beginning in the mid-1970s, Plaintiff began to suffer
4 from serious psychiatric disabilities, which limited her ability
5 to earn a living wage. Notwithstanding these disabilities, she
6 attempted to earn a degree in a field which would permit her to
7 earn a living wage. She received a temporary disability award
8 during the time she was in her 20s and in her 30s.

9 11) During or about 1994, Plaintiff received a Social
10 Security Permanent Disability Award, and has been receiving
11 Social Security Disability funds since that time.

12 12) Plaintiff finally received her Bachelors degree, but
13 was unable to complete her Masters degree due to her severe
14 condition.

15 13) Plaintiff was hospitalized for her condition on two
16 occasions in 1999.

17 14) Plaintiff, despite repeated attempts, has been unable
18 to maintain employment for any extended period of time.

19 15) Plaintiff currently has monthly appointments with a
20 psychiatrist, and is in a therapy and treatment program, and
21 currently takes Nardil, Neurontin, and Ambien on a regular basis
22 and takes other medications on a periodic basis.

23 16) Plaintiff's recent job history is as follows: (1) A
24 part-time job in approximately August to October, 2001 where she
25 received \$76 every two weeks; (2) September through October,
26 2000, where she taught for 6 weeks; (3) Late 1998 through early
27 1999 for approximately 3 months where she performed elder-care
28 services for a few hours a week; (4) Occasional periodic

1 | babysitting jobs.

2 | 17) Plaintiff's total monthly income is currently \$891.00
3 | of Social Security Disability and has no reasonable prospects of
4 | improving.

5 | 18) Plaintiff's current monthly expenses consist of rent
6 | (temporarily a very low average of \$364 for 1/2 the rent and
7 | utilities in a shared tiny one bedroom apartment - said low rent
8 | cannot be expected to continue much into the future); therapy and
9 | treatment program expenses, as well as out-of-pocket for non-
10 | prescription medications of approximately \$130 per month; auto
11 | insurance, maintenance, registration, and gasoline of
12 | approximately \$150.00 per month, food and personal supplies and
13 | effects of approximately \$300 per month; she buys most clothing
14 | at thrift stores.

15 | 19) Plaintiff has already sold her mobile home and has been
16 | living off the proceeds to be able to make ends meet. The
17 | current remaining balance in the joint account in which she holds
18 | those funds is approximately \$11,000.00, which are essentially
19 | her total worldly assets. Without these funds she will be unable
20 | to survive in the event of any rent increase.

21 | 20) Plaintiff has already cashed out her IRA and expended
22 | those funds in order to be able to meet basic living expenses.

23 | 21) Plaintiff does not expect to receive any inheritance,
24 | life insurance proceeds, or any other windfall of funds for the
25 | remainder of her life.

26 | **FIRST CLAIM FOR RELIEF**
27 | **Hardship Discharge with respect to Student Loans**
 [11 U.S.C. §523(a)(8)]

28 | 15) Plaintiff realleges and incorporates the allegations

1 contained in paragraphs 1 through 21, inclusive, as though fully
2 set forth.

3 16) Plaintiff, based upon her net monthly income will be
4 unable to maintain a minimum standard of living for herself if
5 she is forced to pay her student loan obligations.

6 17) Plaintiff's current situation is likely to continue
7 through the remainder of the repayment period, and for the rest
8 of her life;

9 18) Plaintiff has made a good faith effort to pay the
10 loans.

11 19) Excepting the student loans from discharge will impose
12 an undue hardship on the Plaintiff.

13 **WHEREFORE**, plaintiff prays for judgment as set follows:

14 1) That the Court make a finding that excepting the
15 student loan obligations (and each of them) from plaintiff's
16 discharge will impose an undue hardship on plaintiff pursuant to
17 11 U.S.C. §523(a)(8);

18 2) That the Court enter a declaratory judgment that the
19 student loan debt in the approximate aggregate total sum of
20 \$100,00.00 is dischargeable under 11 U.S.C. §523(a)(8);

21 3) That the Court enter judgment enjoining defendants and
22 each of them from taking any action against plaintiff to enforce
23 the debt;

24 //

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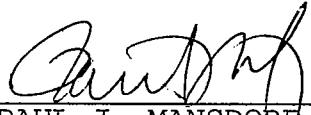
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- 1 4) For costs of suit including reasonable attorneys fees;
2 and,
3 5) For such other relief as the court deems just and
4 proper.

5 DATED: January 31, 2003
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9 PAUL J. MANSDORF
10 Attorney for Plaintiff
11 GAYLE MCLAUGHLIN
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