

1 Richard J. Parker, OSB # 800945
Parker, Butte & Lane, PC
2 1336 E Burnside St Ste # 200
Portland OR 97214
3 Ph: (503) 241-1320
4 Fax 503-323-9058
5 rjp@pbl.net

6 Attorney for Plaintiff

7
8 IN THE UNITED STATES BANKRUPTCY COURT
9 FOR THE DISTRICT OF OREGON

10 In re:)
11 KATIE L. HARRIS,) Case No.: 10-41402-tmb13
12 Debtor.)
13 _____)
14 KATIE L. HARRIS,)
15 Plaintiff,) Adv. Proc. No: 15-
16 vs.)
17 TURNSTILE CAPITAL MANAGEMENT,) COMPLAINT TO DETERMINE PARTIAL
18 LLC, successor to EDUCATION) OR TOTAL DISCHARGEABILITY OF
FINANCIAL PARTNERS, LLC,) STUDENT LOAN OBLIGATIONS
19 Defendant.) (11 USC 523 (a) (8))
20 _____)

21 COMES NOW, the Plaintiff, Katie L. Harris, by and through
22 her attorney, Richard J. Parker and alleges as follows:

23 1

24 Debtor Plaintiff filed a chapter 13 bankruptcy on December
25 3, 2010. This is a core proceeding pursuant to 28 USC 1334 and

1 the court has jurisdiction over this action.

2 2

3 Plaintiff is alleged to owe a private student loan debt in
4 the approximate amount of \$70,000 to Education Financial
5 Partners, LLC. It is believed that this loan is presently held
6 by Turnstile Capital Management, LLC, which has not filed a
7 proof of claim in this proceeding and which is the purported
8 successor to Education Financial Partners, LLC which filed a
9 chapter 7 bankruptcy in 2008.

10 3

11 This is a private loan and while Plaintiff has used
12 forbearances, no special repayment arrangements are available
13 for income based repayment and any reduced payment arrangements
14 were denied to Plaintiff prior to the bankruptcy.

15 4

16 Plaintiff was in Junior College between 2000 and 2006 and
17 borrowed the above student loan between 2006 and 2008 for her
18 time at the University of California Berkley. She has attempted
19 to repay her student loans. Her loan with Wells Fargo has been
20 paid in full and she has reached a settlement with Loan Science,
21 LLC for two other loans.

22 5

23 Plaintiff is 33 years of age, is single, and is employed on
24 a half time basis. Full time employment is not possible due to
25 the special needs of her child. Plaintiff has several physical

1 ailments, including, but not limited to, chronic endometriosis.
2 Plaintiff has a child who was born in 2004 and is now 11 years
3 old. This child has multiple mental and physical disabilities,
4 including but not limited to, Autism, Sensory Processing
5 Disorder, a peanut allergy, other severe allergies, eczema,
6 eosinophilic esophagitis and other gastrointestinal problems
7 which require the use of a feeding tube. He is missing a small
8 part of his brain (Partial Agenesis of the Corpus Callosum). All
9 of these ailments require the ongoing assistance of occupational
10 therapists, physical therapists and behavioral therapists. Due
11 to the need for numerous appointments and the frequent medical
12 issues that arise, Plaintiff is not able to work full time.

13 6

14 Other than a 2007 vehicle with an estimated value of
15 \$4,000, Plaintiff is without assets other than normal household
16 goods. The recent income of the debtor has been as follows:

17 2009	\$17,784
2010	\$22,247
18 2011	\$17,529
2012	\$22,662
19 2013	\$18,419
20 2014	\$13,680

21 Plaintiff is presently employed in a half time position at
22 \$25,000 per year and now has medical insurance. Her earned
23 income every year since graduation has been below median and
24 only once (barely in 2010) has her income been more than 150% of
25 poverty level. Her situation now is the best it has ever been

1 since graduation. The income of Plaintiff is not likely to be
2 increased significantly in the near future. In addition to
3 earned income, the Plaintiff receives minimal and variable
4 Social Security disability of about \$300 per month and sporadic
5 child support of \$209 per month. The father is frequently
6 unemployed. There is about \$5,000 in back child support.

7 7

8 Debtor has used her best efforts to minimize her expenses
9 and increase her income. At present she has minimal surplus
10 income and has been making chapter 13 payments of \$100 to \$300
11 per month since January, 2011. This has been applied to car
12 payments, attorney fees, trustee commission and the general
13 creditors. If the Plaintiff were required to pay any more than
14 a token amount on her student loan debts, she would be unable to
15 maintain a minimal standard of living for herself and her child.
16 As the medical difficulties continue and costs increase, the
17 financial situation may become worse in the future. Her car is
18 now paid off, but the 8 year old car will need to be replaced.
19 Her inability to make full payment of her student loan debt is
20 due to circumstances beyond her control, and the situation is
21 going to persist for the indefinite future. Given her age and
22 medical issues, the age and condition of her child, her assets,
23 income, and limited employability, significant repayment of
24 these student loan debts is not possible. Plaintiff has made
25 some payments on these student loan debts. One other private

1 student loan debt of approximately \$11,000 with Wells Fargo has
2 been paid in full and another has been settled.

3 8

4 The above indicates that the Plaintiff is entitled to a
5 total or partial hardship discharge pursuant of 11 USC 523(a)(8)
6 and has met all of the elements of the Brunner test.

7 9

8 Pursuant to LBR 7008-1, Plaintiff consents to entry of a
9 final judgment or order by the bankruptcy judge.

10 WHEREFORE, Plaintiff prays that the court enter a total
11 discharge of the student loan indebtedness.

12 Dated this 22nd day of December, 2015.

13

14 /s/ Richard J. Parker
15 RICHARD J. PARKER OSB # 800945
16 Attorney for Plaintiff

17

18

19

20

21

22

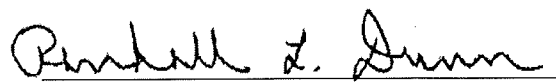
23

24

25

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25

Below is an Order of the Court.


RANDALL L. DUNN
U.S. Bankruptcy Judge

IN THE UNITED STATES BANKRUPTCY COURT
FOR THE DISTRICT OF OREGON

KATIE L. HARRIS,)	
)	Case No.: 10-41402-rld13
Debtor.)	
_____)	
KATIE L. HARRIS,)	
)	
Plaintiff,)	
)	Adv. Proc. No: 15-3214-rld
vs.)	
)	
TURNSTILE CAPITAL MANAGEMENT,)	ORDER OF DEFAULT
LLC, successor to EDUCATION)	
FINANCIAL PARTNERS, LLC,)	
)	
Defendant.)	
_____)	

This matter having come before the court on the Motion of Plaintiff for entry of a Order of Default, and the Court having reviewed the records and files herein, including the proof of service and having heard from counsel for the Plaintiff, and it

1 appearing that the summons and complaint were duly served upon
2 Defendant, and that no answer or other pleading has been filed
3 by Defendant as required by law,

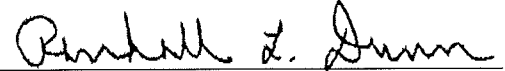
4 IT IS HEREBY ORDERED that Default is hereby entered against
5 the Defendant Turnstile Capital Management, LLC, as provided in
6 FRCP 55(a) made applicable by FRBP 7055.

7 ###

8
9 Submitted by:

10
11 /s/ Richard J. Parker
12 RICHARD J. PARKER, OSB#800945
13 PARKER, BUTTE & LANE, P.C.
14
15
16
17
18
19
20
21
22
23
24
25

1 Below is a Judgment of the Court. If the judgment is for
2 money, the applicable judgment interest rate is: "Not
3 applicable."
4



RANDALL L. DUNN
U.S. Bankruptcy Judge

10 IN THE UNITED STATES BANKRUPTCY COURT
11 FOR THE DISTRICT OF OREGON

12 KATIE L. HARRIS,)	
)	Case No.: 10-41402-rld13
13 <u>Debtor.</u>)	
)	
14 KATIE L. HARRIS,)	
)	
15 Plaintiff,)	
)	Adv. Proc. No: 15-3214-rld
16 vs.)	
)	
17 TURNSTILE CAPITAL MANAGEMENT,)	JUDGMENT
18 LLC, successor to EDUCATION)	
19 FINANCIAL PARTNERS, LLC,)	
)	
20 Defendant.)	
)	

21 *RKD (within the court's core jurisdiction) RKD*

22 This matter, having come before the court following entry of
23 an Order of Default, and the Court having reviewed the records
24 and files herein, including the prima facie declaration of
25 Plaintiff,

1 IT IS HEREBY ORDERED AND ADJUDGED, pursuant to 11 USC 5
2 23(a)(8), that the student loan debt of the Plaintiff to
3 TURNSTILE CAPITAL MANAGEMENT, LLC, successor to EDUCATION

4 FINANCIAL PARTNERS, LLC ^{RWD will be} ~~is hereby~~ discharged, ^{RWD} when the discharge
5 ^{RWD} order is entered in### Plaintiff's main case, Case ^{RWD}
6 No. 10-41402-rld 13.

7 Submitted by: ^{RWD}

8
9
10 /s/ Richard J. Parker
11 RICHARD J. PARKER, OSB#800945
12 PARKER, BUTTE & LANE, P.C.