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9 Victoria C. Wright

10 **UNITED STATES BANKRUPTCY COURT**
11 **CENTRAL DISTRICT OF CALIFORNIA**

12 In re) CASE NO.: 9:15-bk-10877-PC
13)
14 VICTORIA C. WRIGHT,) Chapter 7
15)
16 Debtor.)
17)

18) ADV. NO.:

19)
20 VICTORIA C. WRIGHT, an) **DEBTOR'S COMPLAINT FOR**
21 individual,) **DISCHARGE OF STUDENT**
22) **LOANS UNDER 11 USC §**
23 Plaintiff,) **523(a)(8)**
24)

25 vs.)
26)
27 NATIONAL COLLEGIATE)
28 STUDENT LOAN Trust 2006-3, a)
Delaware Statutory Trust; NAVIENT)
CORPORATION, a Delaware)
Corporation: U.S. DEPARTMENT OF)
EDUCATION; and DOES 1-10,)
Defendants.)

1 COMES NOW Plaintiff/Debtor Victoria C. Wright (“Plaintiff”) and herein
2 complains and alleges as follows:

3 **PRELIMINARY STATEMENT**

4 1. Plaintiff institutes this adversary proceeding respectfully requesting
5 discharge of her student loans under 11 USC § 523(a)(8).

6 **JURISDICTION AND VENUE**

7 2. This Court has jurisdiction to hear this case pursuant to the provisions
8 of 28 U.S.C. § 1334 in that this proceeding arises from and is related to the above
9 captioned case under Title 11.

10 3. This Court has both personal and subject matter jurisdiction over this
11 case because it involves a core matter pursuant to 28 U.S.C. § 1334 and 28 U.S.C.
12 §§ 157 (b)(2). However, in the event this case is determined to be a non-core
13 proceeding, Plaintiff consents to the entry of a final order by the Bankruptcy Judge.

14 4. Venue for this matter is proper pursuant to 28 U.S.C. § 1391(b).

15 **PARTIES**

16 5. Plaintiff Victoria C. Wright is an adult resident citizen of Ventura
17 County, California, over the age of eighteen years, whose address is 1550 Rory Lane
18 Space 151, Simi Valley, CA 93063.

19 6. Defendant National Collegiate Student Loan Trust 2006-3 (“National
20 Collegiate”), a Delaware Statutory Trust, is a lending, loan servicing and/or
21 collecting institution conducting business in the State of California.

22 7. Defendant Navient Corporation (“Navient”), a Delaware Corporation,
23 is a lending, loan servicing and/or collecting institution conducting business in the
24 State of California.

25 8. Defendant U.S. Department of Education (“U.S. Department of
26 Education”) is a department of the United States government, headquartered in
27 Washington DC.

1 9. Plaintiff is not aware of the true names and capacities of the Defendants
2 sued herein as DOES 1 through 10, inclusive, and therefore sue these Defendants by
3 such fictitious names. Each of said fictitiously named defendants is responsible in
4 some manner for the violations of law herein alleged. Plaintiff will amend this
5 complaint to add the true names of the fictitiously named Defendants once they are
6 discovered. Whenever reference is made in this complaint to "Defendants," such
7 reference shall include Does 1 through 10.

8 10. Whenever in this complaint reference is made to any act of any
9 individual defendant, such allegation shall be deemed to mean that said defendant is
10 and was acting (a) as a principal, (b) under express or implied agency, and/or (c)
11 with actual or ostensible authority to perform the acts so alleged on behalf of every
12 other defendant herein.

13 11. Whenever in this complaint reference is made to any act of Defendants,
14 such allegation shall be deemed to mean the act of each defendant acting
15 individually and jointly with the other Defendants named in that cause of action.

16 **FACTUAL ALLEGATIONS**

17 12. Plaintiff Victoria C. Wright ("Plaintiff") is an unmarried woman, fifty
18 one years old.

19 13. Plaintiff filed this Chapter 7 Bankruptcy Case on April 28, 2015, Case
20 No. 9:15-bk-10877 ("Chapter 7 Case").

21 14. Since she was sixteen years old, Plaintiff had the same job for more
22 than two decades. From 1979 to 2002, Plaintiff worked for Vons Grocery Company.
23 Plaintiff became permanently disabled in 2002 due to lupus, fibromyalgia, and
24 polycystic kidney disease. Since March 15, 2002, Vons Grocery Company has been
25 paying benefits to Plaintiff as a disabled worker.

26 15. However, in a good faith effort to re-enter the workforce, Plaintiff
27 started to attend college in 2006.

1 16. In 2006, Plaintiff obtained a student loan from Charter One Bank, N.A.
2 in the amount of \$33,048.62 (“National Collegiate Loan”). On or around March 11,
3 2015, National Collegiate filed a civil lawsuit in Superior Court of California,
4 County of Ventura, alleging that Charter One Bank, N.A. had assigned the loan to
5 National Collegiate. The complaint alleged that Plaintiff owed National Collegiate
6 the principal balance of \$59,461.36. Plaintiff scheduled National Collegiate Loan on
7 her Schedule F in the Chapter 7 Case, in the amount of \$70,000.00.

8 17. Plaintiff obtained further private student loans (“Private Loans”) in
9 2006 and 2007. Based on her credit reports of May 2015, Plaintiff scheduled Private
10 Loans on her Schedule F in the Chapter 7 Case as debts owed to Defendant Navient,
11 in the cumulative amount of \$129,388.00.

12 18. In 2008, 2009, and 2011, Plaintiff obtained federal student loans
13 (“Federal Loans”) from U.S. Department of Education. Based on her credit reports
14 of May 2015, Plaintiff scheduled Federal Loans on her Schedule F in the Chapter 7
15 Case as owed to “Dept of Ed/Navient,” in the cumulative amount of \$52,226.00.

16 19. On information and belief, Plaintiff alleges that Federal Loans were
17 owed to Defendant U.S. Department of Education. On information and belief,
18 Plaintiff further alleges that Defendant Navient acted as an agent of U.S.
19 Department of Education, a servicer and/or a collector of these loans.

20 20. In April 2015, Plaintiff applied to U.S. Department of Education to
21 have her Federal Loans discharged. On information and belief, Plaintiff alleges that
22 U.S. Department of Education discharged them due to her total and permanent
23 disability.

24 21. In 2007, Plaintiff applied again for disability benefits with the United
25 States Social Security Administration which granted Plaintiff’s application. Since
26 then, Plaintiff has received disability benefits from the Social Security
27 Administration, amounting to \$2,008.00 per month, as of the date of filing the
28

1 Chapter 7 Case.

2 22. Since attending college, unfortunately, Plaintiff's health has been
3 consistently worsening. Plaintiff's polycystic kidney disease progressed. Plaintiff is
4 to be put on a kidney transplant list as soon as she loses enough weight (or
5 undergoes a bariatric surgery).

6 23. Moreover, due to work injuries, Plaintiff has developed carpal tunnel in
7 her both hands which causes numbness and chronic pain. Plaintiff also has chronic
8 pain in both her knees and needs to have knee replacement surgeries.

9 24. But the most difficult part is that, due to car accidents, Plaintiff had to
10 undergo two lumbar fusion spinal surgeries in the last two years. Plaintiff cannot
11 stand and sit for long periods of time. Plaintiff is also unable to lift anything and, on
12 some days, even get out of bed and walk.

13 25. Every day, Plaintiff has to take a lot of medications in order to cope
14 with her lupus, fibromyalgia, polycystic kidney disease, carpal tunnel, knee and
15 spine injuries. The severity of chronic pain and the amount of medication impair
16 Plaintiff's ability to get any meaningful employment. Plaintiff's permanent physical
17 disability is an impediment to finding a job, which cannot be overcome.

18 26. As stated on Plaintiff's Schedule I filed in the Chapter 7 Case, her
19 income is \$3,815.34 per month, and, as stated on her Schedule J, her expenses are
20 \$4,538.14, resulting in monthly *negative* net income of \$722.80.

21 **COUNT I**

22 **FOR DISCHARGE OF PLAINTIFF'S STUDENT DEBTS WITH**
23 **DEFENDANT NATIONAL COLLEGIATE, UNDER 11 U.S.C. § 523(a)(8)**
24 **(Against Defendant National Collegiate, U.S. Department of Education, and**
25 **Navient, and Does 1-10)**

26 27. Plaintiff realleges all prior paragraphs as if set out here in full.

27 28. 11 U.S.C. § 523(a)(8) provides that a discharge under section

1 727, 1141, 1228(a), 1228(b), or 1328(b) of this title does not discharge an individual
2 debtor from any debt unless excepting such debt from discharge under this
3 paragraph would impose an undue hardship on the debtor and the debtor's
4 dependents, for an educational benefit overpayment or loan made, insured, or
5 guaranteed by a governmental unit, or made under any program funded in whole or
6 in part by a governmental unit or nonprofit institution; or an obligation to repay
7 funds received as an educational benefit, scholarship, or stipend; or any other
8 educational loan that is a qualified education loan, as defined in section 221(d)(1) of
9 the Internal Revenue Code of 1986, incurred by a debtor who is an individual.

10 29. Excepting Plaintiff's student loans with Defendants would impose an
11 undue hardship on Plaintiff.

12 30. Based on current income and expenses, Plaintiff cannot maintain a
13 minimal standard of living for the Plaintiff if forced to repay the loan. Plaintiff is an
14 unmarried woman, 51 years old.

15 31. As stated on Plaintiff's Schedule I filed in the Chapter 7 Case, her
16 income is \$3,815.34 per month, and, as stated on her Schedule J, her expenses are
17 \$4,538.14, resulting in monthly negative net income of \$722.80. With already a
18 negative net monthly income, Plaintiff would be unable to repay Defendant's debts.

19 32. Additional circumstances exist indicating that this state of affairs
20 is likely to persist for a significant portion of the repayment period.

21 33. Since she was sixteen years old, Plaintiff had the same job for more
22 than two decades. From 1979 to 2002, Plaintiff worked for Vons Grocery Company.
23 Plaintiff became permanently disabled in 2002 due to lupus, fibromyalgia, and
24 polycystic kidney disease. Since March 15, 2002, Vons Grocery Company has been
25 paying benefits to Plaintiff as a disabled worker.

26 34. In April 2015, Plaintiff applied to U.S. Department of Education to
27 have her Federal Loans discharged. On information and belief, Plaintiff alleges that
28

1 U.S. Department of Education discharged them due to her total and permanent
2 disability.

3 35. In 2007, Plaintiff applied again for disability benefits with the United
4 States Social Security Administration which granted Plaintiff's application. Since
5 then, Plaintiff has received disability benefits from the Social Security
6 Administration, amounting to \$2,008.00 per month as of the date of filing the
7 Chapter 7 Case.

8 36. Since attending the college in 2011, unfortunately, Plaintiff's health has
9 substantially worsened. Plaintiff's polycystic kidney disease progressed. Plaintiff is
10 to be put on a transplant list as soon as she loses enough weight (or undergoes a
11 bariatric surgery).

12 37. Moreover, due to work injuries, Plaintiff has developed carpal tunnel in
13 her both hands which causes numbness and chronic pain. Plaintiff also has chronic
14 pain in both her knees and needs to have knee replacement surgeries.

15 38. But the most difficult part is that, due to car accidents, Plaintiff had to
16 undergo two lumbar fusion spinal surgeries in the last two years. Plaintiff cannot
17 stand or sit for long periods of time. Plaintiff is also unable to lift anything and, on
18 some days, even get out of bed and walk.

19 39. Every day, Plaintiff has to take a lot of medications in order to cope
20 with her lupus, fibromyalgia, polycystic kidney disease, carpal tunnel, knee and
21 spine injuries. The severity of chronic pain and the amount of medication impair
22 Plaintiff's ability to get any meaningful employment. Plaintiff's permanent
23 disability is an impediment to finding a job, which cannot be overcome.

24 40. Therefore, Plaintiff respectfully requests this Court to discharge
25 Plaintiff's student debts with Defendants, under 11 U.S.C. § 523(a)(8).

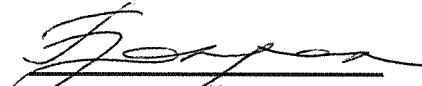
26 **PRAYER**

27 **WHEREFORE**, Plaintiff prays for damages and other relief as follows:

- 1 1. For an order discharging Plaintiff's student loans with Defendants,
2 pursuant to 11 U.S.C. § 523(a)(8);
3 2. For costs of this suit incurred herein;
4 3. For reasonable attorneys' fees incurred; and
5 4. Such other and further relief as this court shall deem fair equitable and
6 just.

7 DATED: January 18, 2016

THE ALBERTS FIRM

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10 By: 
11 Jeremy J. Alberts
12 Batkhand Zoljargal,
13 Attorneys for the Debtor,
14 Victoria C. Wright
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