

F.3 Discovery in Bankruptcy Proceeding to Determine Dischargeability of Student Loan

UNITED STATES BANKRUPTCY COURT
DISTRICT OF NEW JERSEY, CAMDEN VICINAGE

IN RE: [Debtor])
)
	Debtor)
[Debtor],)
	Plaintiff)
)
v.)
)
United States Department of)
Education)
	Defendant)
)

PLAINTIFF'S INTERROGATORIES TO DEFENDANT U.S. DEPARTMENT OF EDUCATION

To: Defendant U.S. Department Of Education
 By and through its attorney of record

A. Defendant is hereby required to answer in writing, under oath in accordance with Rule 7033 of the Rules of this court, the interrogatories attached hereto.

B. In answering these interrogatories, furnish all information in the possession of Defendant, its officers, agents and employees and its attorneys and investigators for its attorneys.

C. If Defendant cannot answer the following interrogatories in full after exercising due diligence to secure the information to do so, state the answer to the extent possible specifying your inability to answer the remainder, and state whatever information or knowledge Defendant has concerning the unanswered portion.

D. Each interrogatory is considered continuing, and if Defendant obtains information which renders its answers or one of them,

incomplete or inaccurate, Defendant is obligated to serve amended answers on the undersigned.

E. Insofar as may be applicable, and except as otherwise indicated, the term “document” or “documents” shall refer to any and all writings and recorded materials, of any kind whatsoever, that is or has been in the possession, control or custody of Defendant or of which Defendant has knowledge, whether originals or copies, including but not limited to contracts, documents, notes, rough drafts, interoffice memoranda, memoranda for the files, letters, research materials, correspondence, logs, diaries, forms, bank statements, tax returns, card files, books of account, journals, ledgers, invoices, blueprints, diagrams, drawings, computer print-outs or tapes, reports, surveys, statistical computations, studies, pictures, maps, graphs, charts, minutes, manuals, pamphlets, or books of any nature or kind whatsoever; and all other materials handwritten, printed, typed, mimeographed, photocopied or otherwise reproduced; and slides or motion pictures, television tapes; all tape recordings (whether for computer, audio or visual replay) or other written, printed or recorded matter or tangible things on which words, phrases, symbols or information are affixed.

F. A request to “identify” a document is a request to state (insofar as may be applicable):

1. The date of such document.
2. The type of document or written communication it is.
3. The names and present addresses of the person or persons who prepared such document and of the signers, addressors and addressees of such document.
4. The name of any principal whom or which the signers, addressors and preparers of such document were thereby representing.
5. The present location of such document.
6. The name and present address of the person now having custody of the document.
7. Whether you possess or control the original or a copy thereof and if so, the location and name of the custodian of such original or copy.
8. A brief description of the contents of such document.

G. A request to “describe” any oral statement or communication is a request to state:

1. The name and present address of each individual making such statement or communication.
2. The name of any principal or employer whom or which such individual was thereby representing and the position in which such individual was then employed or engaged by such principal or employee.
3. The name and present address of the individual or individuals to whom the oral statement or communication was made, and the name of any principal or employer whom such person or persons were representing at the time of and in connection with such oral statement or communication, as well as the employment position in which they were then employed or engaged.
4. The names and present addresses of any other individuals present when such oral statement or communication was made or who heard or acknowledged hearing the same.
5. The place where such oral statement or communication was made.
6. A brief description of the contents of such oral statement or communication.

H. A request to “cite” portions or provisions of any document is a request to state, insofar as applicable with reference to such portion or provision, the title, date, division, page, sheet, charge order number, and such other information as may be necessary to accurately locate the portion or provision referenced.

I. The term “person” shall include a natural person, partnership, corporation, association, or other group however organized.

J. Whenever a request is made to “identify” a natural person, it shall mean to supply all of the following information:

1. His/her full name.
2. His/her employer and position at the time.
3. The name of any person or entity (natural or artificial) whom she/he is claimed to have represented in connection with the matter to which the interrogatory relates.
4. His/her last known address, telephone number, and employer.
5. His/her present employer.

K. A request to “explain fully” any answer, denial or claim is a request (insofar as may be applicable) to:

1. State fully and specifically each fact and/or contention in support of your answer, denial or claim; and
2. For each such fact or contention, to identify each person who has knowledge relative to that fact or contention, each document that tends to support that fact or contention; and each document that tends to dispute that fact or contention.

L. A request in any of the enclosed interrogatories to “identify” any document is a request to attach said document to answers to these interrogatories. If documents are attached to answers to these interrogatories, they must be marked to identify which interrogatory they refer to. In identifying documents you

- (a) how many hours each loan agent spent under such instruction;
- (b) whether such instruction was mandatory or voluntary;
- (c) the subject matter of the instruction.

INTERROGATORIES

IMPORTANT: All questions containing the terms “document,” “documents,” “identify,” “describe,” “cite,” “person” or “explain fully” must be answered in accordance with the definitions of those terms contained in the attached instructions.

1. Please identify the person answering each of these interrogatories.
2. Identify each person Defendant may call as a witness in this case.
3. Identify each document which Defendant may introduce into evidence in this case.
4. State the total amount Defendant alleges to be owing as of the date of the filing of this lawsuit.
5. Itemize the total amount Defendant alleges to be owing by unpaid amounts financed, accrued finance charge, and other charges, as applicable.
6. Please identify any and all persons known to Defendant who have personal knowledge concerning the instant loans. Please specify which of these people are agents of Defendant or were agents of Defendant at the time of the instant transaction.
7. State the total amount of dollars in cash that Plaintiff has paid to Defendant. Identify each payment individually and state the date of payment.

8. List separately all persons to whom and charges, fees, or any other amounts were paid in connection with these loans, including the name and address of the payee, the amount disbursed to each, the date of dispersal, and the check number for each dispersal.

9. State whether you received any requests for deferment of loans from Plaintiff. If so, please specify when each request was made.

10. If you identified any requests in interrogatory 9, please provide your response to Plaintiff's requests.

11. State whether you received any requests for forbearance of loans from Plaintiff. If so, please specify when each request was made.

12. If you identified any requests in interrogatory 11, please provide your response to Plaintiff's requests.

13. Identify your procedures for granting of deferment and forbearance of loans at all relevant times.

14. State any policies and/or programs, outside of traditional deferment and forbearance of loans policies, in which plaintiff may have been qualified to participate.

15. If you identified any such policies and/or programs in interrogatory 14, please provide any information relating to Plaintiff's participation.

16. Please state each and every fact which is the basis for your contention in the Second Affirmative Defense of your Answer and Affirmative Defenses that "Debtor has not made a good faith effort to repay the loan and would not qualify for a discharge on the basis of undue hardship," and for each and every fact, please list the name, address, and telephone number of all witnesses with the knowledge relevant to the fact and all documents, giving the document description, date, and custodian, which touches upon or relates to that fact.

17. Please specify all amounts received from Plaintiff, and when such amounts were received, from the total sum identified in your Ninth Affirmative Defense of your Answer and Affirmative Defenses.

18. Please identify all policies relating to deferment and forbearance of loans, utilized by loan guarantors, the [Guaranty Agency].

19. Identify all documents containing information about the instant loans. State which, if any, of the above documents were given to Plaintiff, including where and when each document was given to Plaintiff.

20. Identify each telephone contact made to Plaintiff by Defendant or Defendant's agent regarding the loans. Describe the substance of each such telephone conversation.

21. Identify each document, including each notice, that Defendant mailed or otherwise delivered to Plaintiff concerning the instant loans. For each document, state the address it was mailed to and whether it was received by Plaintiff.

PLEASE TAKE NOTICE that a copy of the answers to the attached interrogatories and the requested documents must be served upon the undersigned within the time allowed by Rule 7033 of the Rules of this Court.

[Attorney for Plaintiff]