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IS THE MARK TETZLAFF CASE OVER AT THE SUPREME COURT? MAYBE NOT.

Posted by: Guest Post March 23, 2016 in Debt Articles, Student Loan Bankruptcy Discharge

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By Gordon Wayne Watts

This is a follow-up to this story that Steve wrote about Mark Tetzlaff and his student loan Supreme Court efforts.

We recall Mark Tetzlaff, a law student with a staggering \$260,000 in college loan debt, is a 56-year old, Waukesha, Wisconsin resident, who lives with his eighty-five-year-old mother, both of whom subsist solely

the income from her Social Security payments: He's divorced, unemployed, and has struggled with depression & alcohol abuse – and even has several minor misdemeanor convictions, which, when combined with failure to pass the bar exam, spell financial doom in his recent job searches.

Normally, a person with credit card debt in this situation has no trouble obtaining bankruptcy discharge. (Also, many "über-rich" folk, such as Donald Trump, have obtained bankruptcy discharge for huge sums of money, far in excess of Mr. Tetzlaff's request.) However, as some students are finding out (all too late), a legal standard called "the Brunner test," demands a student show 'undue hardship,' a standard which makes bankruptcy discharge next to impossible.

Tetzlaff, whose education in law surely helped him file for bankruptcy, nonetheless lost in the lower courts, but when he got to the U.S. Supreme Court, he was somehow able to retain Douglas Hallward-Driemeier, one of the "Big Law" attorneys who successfully argued part of Obergefell v. Hodges, the landmark June 2015 "Gay Marriage" case that legalized so-called "same-sex marriage" in all 50 states. Hallward-Driemeier, as it turns out, is also a bankruptcy expert, and he made valiant efforts to argue that the various appellate circuits were "split" (in disagreement) in their exact definition of what constituted 'undue hardship.' While the Supreme Court isn't required to take such cases, instances in which there is a 'circuit split' are a favorite type of case, one in which the Supremes are needed to 'resolve' a Circuit Split, and 'return order' to the legal world. Hallward-Driemeier & his team also seem to suggest that Title 11, Section 523(a)(8) of U.S. Code (the oppressive law in question) is unconstitutional because it creates "non-uniform" bankruptcy law, running afoul of Art. I, Sec. 8, Cl. 4 of the U.S. Constitution. The Supreme Court granted Certiorari (review) of Tetzlaff's petition, and demanded that the other side respond .



You can follow the case docket if you click here .

For reasons unclear to this writer, the court ruled against Mr. Tetzlaff, allowing the circuit split to remain. Even more unusual, Hallward-Driemeier's law firm didn't ask the court for a rehearing of the denial of Certiorari review. This is where things get really weird: I (a non-lawyer) decided to "crash the party" and inform the court that it was wrong.



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Since I nearly won in court as Terri Schiavo's next friend – all by myself – one may safely assume that I "know a little something" about law, and thus may "have a chance" on the 'Big Playing Field.' (Ironically, Hallward-Driemeier was also opposing my counsel in one of the gay marriage cases where we both participated, and moreover, the U.S. 11th Circuit Court of Appeals, in Atlanta, GA, allowed me to participate in another gay marriage case: I was the only 'non-lawyer' they allowed to participate. But we're "on the same side" in this case.) And, as I generally hold 'Conservative' views in all areas, one may also safely

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assume that I'm not a 'free handout' liberal. So, why am I seeking relief here? Well, since I have a college loan, I'm legally permitted to 'Intervene,' since my interests weren't being represented by the existing parties. Hallward-Driemeier tried real hard (and his brief was a fun read!), but he left out many things. To see why I felt that I "had a chance" at butting in, and what my arguments were, please visit one of my mirrors above. Just like slavery, or any other form of oppression, I don't expect an overnight or instant solution to "debt slavery," here, but this guest OpEd I'm writing is meant to be an ongoing series, and I hope to bring you further updates. Today, Tuesday, 22 March 2016, I submitted a response to the court's claim that I didn't have a legal right to intervene, citing Federal Case law from the US Supreme Court, no less, to prove that I was right. See my docket, linked above, for said letter and updates.

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BS, The Florida State University, Biological & Chemical Sciences;
Class of 2000, double major with honours
AS, United Electronics Institute, Class of 1988, Valedictorian

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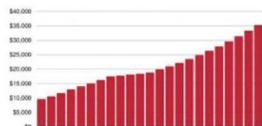


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GordonWayneWatts • 4 months ago

Thank you for publishing my guest OpEd, Steve. You did an excellent job!

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Anon Person • 4 months ago

Mr. Watts, Perhaps you need to read my case? I won a full discharge of \$130K, and it was a precedent setting case using the Department of Education's own July 7th Policy Directive as my defense. I won my case without an attorney and without a trial against the Assistant U.S. Attorney here in the Metro DC area! The U.S Attorney filed a motion to strike my adversary complaint, I filed a motion to object and three days after the motion hearing the U.S. Attorney called me on the phone and said the DOE was going to discharge my loans and remove nearly \$30K in penalties and discharge nearly \$100K in student loan debt. Another friend in California (who btw is also a lawyer) just won his case and the DOE discharged OVER \$300,000.00 in his case! Yes I applaud you for standing up! I am doing the same by writing about undue hardship on my blog www.unduehardship-povertyrequi.... We all can join forces and end this unfair practice if we stand up together! Thank you! Best Regards, Richard Allan Precht

2 ^ | v • Reply • Share >

GordonWayneWatts → Anon Person • 4 months ago

Thank you for weighing in, Rich. I am bookmarking your website (in multiple browsers - just to make sure I don't lose it!). - And, congratulations on your win! You are a team player - thank you for (helping by) sending the predatory lenders the clear message that debt slavery is not cool...

I saw your recent blog post. Regardless of anyone's political views, I do feel that most would accept my axiom that Donald Trump, whom you discuss, would be amenable to helping students in trouble. Why, some may ask?

Well, since he got bankruptcy (not him, himself, but his companies - but same-difference), then he can feel our pain - and knows how important it is to have an Economic Second amendment to defend against predatory lending. (I.e., he needed this protection, so I'm sure he understands us - and thus be sympathetic - and, as he has experienced it - empathetic as well.)

**PS: Rep Green is a good guy, but when he supports the concept of college loans

PS. Ben Carson is a good guy, but when he supports the concept of college loans,

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backed loans disappeared, and all you had were private loans -- and then you were able to bankrupt them like Credit Cards, lenders and colleges would be ****less**** inclined to have ****super**** high tuition: They'd know students could not afford that, and I told Carson as much on his social media and/or via email feedback. We must politely, but firmly, advocate good policy here.**

In my case, I'm on IBR (Income Based Repayment), and 10% of my discretionary income is 10% of zero - which is ****zero****! -- (And even if I start earning more money, 10% of discretionary income - that is, income above basic necessities - is not a lot.) So, were I to win, I might actually be thrown into bankruptcy court, and have to start paying more. But, the needs of the many outweigh the needs of the few - or the one. (Quoting SPOCK from Star Trek: The Wrath of Kahn) - That is, even if it doesn't help ***me***, it will help others. (Actually, it ***would*** help me, if I knew I could reduce the chance of these criminals running free - and posing a threat to myself when they know they keep getting away with crimes ala Predatory Lending, etc.)

Again, thank you for writing back.

Gordon Wayne Watts
 Lakeland (between Tampa & Orlando), Fla.///
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1 comment • 18 days ago

 **Charmaine Diallo** — Good to know!

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1 comment • 14 days ago

 **Steve Rhode** — Samuel, Michael just answered your question.

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1 comment • 10 days ago

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1 comment • 10 days ago

 **Steve Rhode** — David, I just answered your question.

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Steve Rhode

Michael, I just answered your question.

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Andrew Weber Certified SLC Appreciate it Steve! I definitely will. Your site has been an excellent resource for a long time.

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Steve Rhode

Thanks for the comment. Keep participating to help others.

How Can I Deal with an Unaffordable Parent PLUS Loan After Bankruptcy? · 22 hours ago



Andrew Weber Certified SLC

Just wanted to add that if Parent Plus loans were originated prior to June 1 2006, it's a lot...

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