ELA Case Commentary

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# *Martin v. Educational Credit Management Corporation*: An Iowa Bankruptcy Judge Discharges 50-Year-Old Unemployed Lawyer's Student Loans

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In *Martin v. Great Lakes Higher Education Group and Educational Credit Management Corporation* (ECMC),[1] decided last February, Janeese Martin obtained a bankruptcy discharge of her student loan debt totaling $230,000. Judge Thad Collin's decision in the case is probably most significant for the rationale he articulated when he rejected ECMC's argument that Martin should be placed in a 20- or 25-year, income-based repayment plan (IBRP) rather than given a discharge.

Citing previous decisions, Judge Collins said an IBRP is inappropriate for a 50-year-old debtor who would be 70 or 75 years old when her IBRP would come to an end. An IBRP would injure Martin's credit rating and cause her mental and emotional hardship, the judge wrote.[2] In addition, an IBRP could lead to a massive tax bill when Martin's plan terminated in 20 or 25 years, when she would be "in the midst" of retirement.[3]

## Janeese Martin, a 1991 law-school graduate, is unable to find a good law job

Janeese Martin graduated from University of South Dakota School of Law in 1991 and passed the South Dakota bar exam the following year. In spite of the fact that she held a law degree and a master's degree in public administration, Martin never found a good job in the field of law.

Martin financed her undergraduate studies and two advanced degrees with student loans totally $48,817. In 1993, she consolidated her loans at an interest rate of 9 percent; and she made regular payments on those loans from 1994-1996. [4]

Over the years, there were times when Martin could make no payments on her student loans, but she obtained various kinds of deferments that allowed her to skip monthly payments while interest accrued on her loan balance. By 2016, when Martin and her husband filed for bankruptcy, her student loan debt had grown to $230,000--more than four times what she borrowed.[5]

As Judge Collins noted in his 2018 opinion, Janeese Martin was 50 years old and unemployed. Her husband Stephen was 66 years old and employed as a maintenance man and dishwasher at a local cafe. The couple supported two adult children who were studying at the University of South Dakota and had student loans of their own. The family's annual income for 2016 was $39,243, which came from three sources: Stephen's cafe job, his pension, and his Social Security income.[6]

In its post-trial brief, ECMC consented to discharging all but $90,000 of Martin's debt and argued for a partial discharge. Judge Collins rejected this argument, however, stating, "The Eighth Circuit has plainly rejected partial discharge, instead adhering to the all-or-nothing approach."[7]

Having concluded that a student-loan discharge was an "all-or-nothing" proposition in the Eighth Circuit, the judge turned to determining whether Martin's student-loan debt constituted an "undue hardship" under the Bankruptcy Code. In doing so, Judge Collins reviewed Janeese Martin's petition under the "totality of circumstances" test, which is the standard used by the Eighth Circuit Court of Appeals for determining when student loans constitute an "undue hardship" and can be discharged through bankruptcy.[8]

## Martin's past, present, and reasonably reliable future financial resources

Judge Collins surveyed Martin's employment history since she completed law school. In addition to three years working for a legal aid clinic, Martin had worked eight years with the Taxpayer's Research Council, a nonprofit agency located in Iowa. Her maximum salary in that job had paid only $31,000, and Martin was forced to give up her job in 2008 when her family moved to South Dakota.

ECMC, which intervened in Martin's suit as a creditor, argued that Martin had only made "half-hearted" efforts to find employment, but Judge Collins disagreed. Martin "testified very credibly that she wants to work and has applied for hundreds of jobs," Judge Collins wrote.[9] Nevertheless, in the nine years since her last job, Martin had only received a few interviews and no job offers.

Judge Collins acknowledged that Martin had two advanced degrees, but neither had been acquired recently. In spite of her diligent efforts to find employment, the judge wrote, she was unlikely to find a job in the legal field that would give her sufficient income to make significant payments on her student loan.

## Martin's reasonable and necessary living expenses

Judge Collins itemized the Martin family's monthly expenses, which totaled about $3,500 a month. These expenses were reasonable, the judge concluded, and slightly exceeded the family's monthly income. Virtually all expenses "go toward food, shelter, clothing, medical treatment, and other expenses reasonably necessary to maintain a minimal standard of living," Judge Collins ruled, and "weigh in favor of discharge/"[10]

## Other relevant facts and circumstances

ECMC argued, as it nearly always does in student loan bankruptcy cases,[11] that Martin should be placed in a 20- or 25-year income-based repayment plan rather than given a bankruptcy discharge. The Martin family's income was so low, ECMC pointed out, that Martin's monthly payments would be zero.

Judge Collins' rejected ECMC's arguments, citing two recent federal court opinions: the 2015 *Abney* decision, and Judge Collins' own 2016 decision in *Fern v. FedLoan Servicing*. "When considering income-based repayment plans under § 523(a)(8)," Judge Collins wrote, "the Court must be mindful of both the likelihood of a debtor making significant payment under the income-based repayment plan, and also of the additional hardships which may be imposed by these programs."[12]

These hardships, Judge Collins noted, include the effect on the debtor's ability to obtain credit in the future, the mental and emotional impact of allowing the size of the debt to grow under an IBRP, and "the likely tax consequences to the debtor when the debt is ultimately canceled."[13]

In Judge Collins' view, an IBRP was simply inappropriate for Janeese Martin, who was 50 years old:

If she were to sign up for an IBRP, she would be 70 or 75 when her debt was ultimately canceled. The tax liability could wipe out all of [Martin's] assets not as she is approaching retirement, but as she is in the midst of it. If [Martin] enters an IBRP, not only would she have the stress of her debt continuing to grow, but she would have to live with the knowledge that any assets she manages to save could very well be wiped out when she is in her 70s.[14]

## Conclusion

*Martin v. ECMC* is at least the fourth federal court opinion which has considered the emotional and mental stress that IBRPs inflict on student-loan debtors who are forced into long-term repayment plans that cause their total indebtedness to grow. Together, Judge Collins' *Martin* decision, *Abney v. U.S. Department of Education*,[15] *Fern v. FedLoan Servicing*,[16] and *Halverson v. U.S. Department of Education*[17] irrefutably argue that the harm IBRPs inflict on distressed student debtors often outweighs any benefit the federal government might receive by forcing Americans to pay on student loans for 20 or even 25 years—loans that almost certainly will never be paid off.

## ENDNOTES

1 584 B.R. 886 (Bankr. N.D. Iowa, 2018). Educational Credit Management Corporation intervened in the case as a defendant and apparently was the leading party representing Martin's student-loan creditors. When Judge Thad Collins made reference to the defendants' arguments, he invariably mentioned ECMC, not Great Lakes Higher Education Group.

2 *Id.* at 894.

3 *Id.*

4 *Id.* at 888.

5 *Id.*

6 *Id.* at 889.

7 *Id.* at 890.

8 *See* Andrews v. South Dakota Student Loan Assistance Corp, 651 F.2d 702 (8th Cir. 1981).

9 *Martin*, 584 B.R. at 892.

10 *Id.* at 893.

11 *See e.g.*, Roth v. Educ. Credit Mgmt. Corp., 490 B.R. 908 (B.A.P. 9th Cir. 2013) (ECMC arguing that 68-year-old woman living on less than $800 in monthly Social Security income should be placed in an income-based repayment plan).

12 *Martin*, 584 B.R. at 894 (internal punctuation omitted).

13 *Id.* (internal citation and punctuation omitted).

14 *Id.*

15 Abney v. U.S. Dep't of Educ., 540 B.R. 681 (Bankr. W.D. Mo. 2015).

16 553 B.R. 362 (Bankr. N.D. Iowa 2016), *aff'd* 563 B.R. 1 (8th Cir. B.A.P. 2017).

17 401 B.R. 378 (Bankr. D. Minn. 2009).