

## **APPENDIX B: Debtor Example Scenario**

On January 3, 2022, Jane Smith filed a chapter 7 bankruptcy case in Maryland. She later filed a complaint to seek to discharge approximately \$26,000 in student loans. The complaint and summons were served on February 12, 2022. In the complaint, Ms. Smith pleads that her student loan debt should be discharged because requiring payment will cause an “undue hardship” for her and her ten-year-old daughter, Sarah. Ms. Smith’s bankruptcy attorney forwards a signed Attestation to the Department Attorney with a copy of Ms. Smith’s 2020 tax return. (She has not yet completed the 2021 return.) Pursuant to the Guidance, the Department Attorney would evaluate the information provided in the Attestation as follows to determine if the facts in Ms. Smith’s case justify stipulating that she has shown an undue hardship within the meaning of Section 523(a)(8) of the Bankruptcy Code.

### *Part I: Personal Information*

Part I of Ms. Smith’s Attestation lists relevant background information. It shows that she lives in Baltimore County, Maryland, in a household consisting of herself (age 30) and her daughter (age 10). She lists a student loan balance of \$26,369 and indicates her loan has been in default since June 2012. Part I also shows that Ms. Smith incurred her student loans to attend John Doe Community College, seeking a nursing degree, but that Ms. Smith left school in December 2010 and did not receive a degree. Ms. Smith is currently employed as a nursing assistant at Baltimore County Hospital in Baltimore.

### *Part II: Present Ability to Pay*

Ms. Smith provided information about her income and expenses in Part II of the Attestation. Ms. Smith has reported on her Attestation that she earns \$3900 per month and has current monthly expenses of \$3782, including \$600 that is deducted from her paycheck for taxes, Medicare, Social Security, and health insurance. Ms. Smith has indicated that she resides in inadequate housing and needs to incur additional housing expenses to achieve a minimal standard of living which will increase her total expenses by \$800 (for a total expense amount of \$4582). Below are the steps the Department attorney, in consultation with Education, takes in analyzing Ms. Smith’s income and expenses:

- (1) The Department attorney checks Ms. Smith’s submitted tax return to determine if it is consistent with her stated monthly gross income (\$3900). Ms. Smith has not yet filed her 2021 tax return, so the only income the Department attorney can review is from her 2020 return. That return shows Adjusted Gross Income of \$45,952. This amount divided by 12 is \$3829, a monthly average which is consistent with (and

slightly less) than the \$3900 Ms. Smith has listed on the Attestation. The income stated on the Attestation thus appears correct.<sup>1</sup>

(2) The Department attorney should use the IRS standards to determine Ms. Smith's allowable expenses:

- (a) Payroll deductions. Ms. Smith's payroll deductions of \$600 are almost certainly allowable. She has deducted \$400 for taxes, Medicare, and Social Security expenses, which are generally allowed under the IRS Standards, and the Department attorney should accept the amount of tax withholdings as an expense unless there is an obvious pattern of over withholding. In general, excessive withholding will be accompanied by a significant tax refund; however, Ms. Smith's most recent tax refund is \$3000<sup>2</sup> (which averages to a hypothetical \$250 in monthly income) an amount which is not significant. Accordingly, there is no basis to conclude that Ms. Smith has engaged in excessive withholding.

Ms. Smith's payroll deduction for health insurance of \$200 (Line 15(a)(vi)) is also almost certainly allowable. The Department attorney should generally allow health insurance expenses (whether payroll deductions or not) as long as the debtor indicates the policy covers only family members and not others. Here, Ms. Smith has indicated this on Line 15(a)(vi), and the deduction therefore appears appropriate.

- (b) Living Expenses (National and Local Standards).

Line 14 of the Attestation asks the debtor to confirm whether certain expenses are within amounts allowed under the IRS National Standards. Here, Ms. Smith has confirmed that her household monthly expenses do not exceed the allowed amounts for the following categories, and the Department attorney should allow the full amount for these categories (for a household of two):

Food: \$779  
Housekeeping supplies: \$82  
Apparel & Services: \$161  
Personal care products and services: \$82  
Miscellaneous: \$306

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<sup>1</sup> The Department attorney may request further corroboration if necessary, for example, where a debtor's bankruptcy filings in total reflect unexplained inconsistencies.

<sup>2</sup> The Department attorney may review the debtor's most recent tax return to assess whether a listed refund suggests potential over-withholding.

Ms. Smith has indicated that her uninsured medical costs are \$150, an amount which exceeds the IRS allowed amount of \$75. However, she has explained that her daughter requires medication and an inhaler, and the total cost not covered by insurance is \$150. Because Ms. Smith has reasonably explained why she needs this excess expense in order to meet her daughter’s health care needs, she should be allowed her actual expense amount of \$150.

Ms. Smith’s total expense amount for the categories identified in Line 14 is \$1560.

Lines 15(d) and (e) of the Attestation allow the debtor to list living expenses in categories corresponding to the IRS Local Standards. The following chart compares Ms. Smith’s listed expenses to those allowed under the Local Standards for a family of two based on her locality. The final column shows the amount—typically, the lesser of the IRS Local Standards expense and Ms. Smith’s actual expense in the category—that the Department attorney may treat as allowed, unless the Department attorney finds the higher amount within specific categories is justified.

<b>Expense</b>	<b>Ms. Smith’s Actual Expense</b>	<b>IRS Allowed Amount</b>	<b>Department Attorney Allowed Amount</b>
Housing & Utilities	\$765	\$2233	\$765
Vehicle Payments	\$400	\$588	\$400
Average costs of operating vehicles	\$350	\$307	\$307
<b>TOTAL</b>	<b>\$1515</b>	<b>\$3128</b>	<b>\$1472</b>

Ms. Smith’s actual expenses in each category other than “vehicle operating costs” are less than the amount allowed by the IRS Local Standards. Accordingly, they are consistent with a minimal standard of living. Ms. Smith exceeds the IRS Local Standards amount for vehicle operating costs. The Department attorney should generally limit the debtor’s allowable expenses to the IRS Standard expenses amount, unless allowing the additional expenses is warranted by the debtor’s circumstances.<sup>3</sup>

- (c) Other Necessary Expenses. Line 15(f) allows a debtor to list expenses consistent with the IRS Other Necessary Expenses categories. Ms. Smith has listed only one expense, \$150 per month for babysitting, day care or

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<sup>3</sup> The Department attorney may ask the debtor to provide an explanation for any expenses over the standard expense amount, but the Department attorney need not do so where, as shown below, the debtor’s aggregate expenses as limited still show an inability to make student loan payments.

nursery and preschool costs. The Other Necessary Expenses categories require explanation of the necessity for these expenditures, and Ms. Smith explains that she needs to pay for her daughter to attend before and after care because her daughter's school schedule conflicts with her work schedule. Because Ms. Smith must pay this expense in order to maintain her job, and it is reasonable that she use the services provided by her daughter's school, this expense is "reasonable and necessary."

- (d) Expenses for Unmet Needs. The expenses calculated above total \$3782, an amount less than Ms. Smith's income. However, the Department attorney should also consider anticipated expenses that the debtor has identified on Line 17 of the Attestation. Ms. Smith has explained in Line 17 that she currently lives in her mother's basement apartment, but that this living situation is not sustainable. She has located an apartment for \$1300 per month where she intends to move within a few months, increasing her total housing and utilities expense by \$800. Because Ms. Smith will need to incur this additional expense in order to meet basic housing needs for her and her daughter, the Department attorney should consider Ms. Smith's anticipated rent increase when calculating her total expenses.

(e) Ms. Smith's allowable expenses (including the additional housing expense) total \$4582:

- \$600 – Payroll deductions
- \$1560 – National Standards
- \$1472 - Local Standards (without additional future housing expense)
- \$150 – Other Necessary Expenses
- \$800 – future expenses (additional housing expense)

- (3) Comparison to income. Ms. Smith's allowed expenses of \$4582 exceed her monthly income of \$3829, which has been verified by her tax returns. Because her allowed expenses exceed her income, the Department attorney should find she currently does not have sufficient means to pay her student loans while maintaining a minimal standard of living.

### *Part III: Future Circumstances*

Part III of the Attestation allows a debtor to attest to matters showing that the inability to pay will persist into the future. In Line 18, the debtor can attest to circumstances that justify a *presumption* of a future inability to pay. Ms. Smith has indicated that her student loan went into repayment more than 10 years ago.<sup>4</sup> Accordingly, she is entitled to a presumption that she will remain unable to repay the loan in the future.

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<sup>4</sup> This assertion is supported by Ms. Smith's statement in the Attestation that her loans entered repayment in June 2011, more than 10 years before she filed her bankruptcy case.

Although the presumption of future inability to pay is rebuttable, those circumstances should be infrequent. Illustratively, Ms. Smith has not provided any information in her Attestation that indicates a likely future ability to pay or that her financial circumstances are likely to change. The Attestation, as a whole, supports her claim that she will remain unable to pay. She has indicated on Line 19 that she (1) was forced to drop out of nursing school to care for her infant daughter, (2) she cannot obtain employment as a nurse because she did not obtain her degree, (3) her current job does not offer significant raises or promotions, and (4) she has been unable to obtain a second job and likely could not do so because her daughter suffers from asthma. None of that information provides a basis to rebut the presumption of future inability to pay. Indeed, this information would appear to support a conclusion that she lacks a future ability to pay even in the absence of any presumption. In this situation, there does not appear to be a need for the attorney to investigate further. Although there are circumstances where the Department attorney may reasonably make inquiry to supplement or elucidate statements in the Attestation, that need may be infrequent. In this example, the Department attorney should conclude that Ms. Smith's inability to pay will continue for a significant portion of the repayment period.

#### *Part IV: Prior Efforts to Repay Loans*

Part IV of the Attestation provides information the Department attorney should use to determine if Ms. Smith has made a good faith effort to repay her loans. In this case, good faith should likely be found, because the information provided on Ms. Smith's Attestation reflects that she has maximized income by obtaining full-time employment, minimized expenses, and has not willfully attempted to avoid repaying her loans.

Ms. Smith reports that she has made no payments on her loans (Line 21). Indeed, her responses on Part I of the Attestation show that the loans went into repayment in May 2011 and went into default in June 2012. While these facts are relevant to the "good faith" determination, the failure to make payments alone does not justify finding a lack of good faith. Here, Ms. Smith has offered an explanation for her failure to make payments (Line 26). She left school when her daughter was less than one year old. She had no support from the child's father and initially was unable to obtain part-time employment. Since that time, she has never obtained employment permitting her to pay her student loans.

Ms. Smith also indicates she has not enrolled in an IDRPs (Line 25). Failure to enroll in an IDRPs, however, is not dispositive of a lack of good faith. Here, Ms. Smith attests that she contacted her loan servicer to discuss IDRPs. The servicer did not explain the process for enrolling and stated to Ms. Smith that she would pay a heavy tax burden if she completed a payment plan. Given the circumstances, as well as Ms. Smith's extremely limited income preventing any substantial payments under an IDRPs, nothing in the Attestation suggests she acted "willfully" by not enrolling in an IDRPs or was disinterested in repaying her loans. Rather, her lack of enrollment was reasonable in light of her confusion over the process as well as her concerns about tax consequences.

The Attestation also shows that Ms. Smith sought to maximize income and minimize expenses. On Line 26, she states that she continually worked full-time after her daughter started school, and that she cannot work more hours due to the need to care for her daughter. She also states she could not find higher paying work due to her lack of a degree. Line 26 presents information about minimization of expenses, including that Ms. Smith has lived with her mother for four years to reduce expenses. Finally, while Ms. Smith acknowledges she has acquired a vehicle with a car payment, she explains the need for reliable transportation. In addition, the vehicle payment is within the Local Standards above. Obtaining the vehicle is not evidence of a refusal to minimize expenses.

*Part V: The Debtor's Assets*

Ms. Smith's only asset is a 2018 Toyota Camry with approximately \$5000 in equity (Line 28). Even if Ms. Smith did not claim an exemption for her car, it would be unreasonable to expect Ms. Smith to liquidate this asset in order to pay her student loan. Ms. Smith's Attestation demonstrates that she needs her vehicle to maintain a minimal standard of living for herself and her daughter. Ms. Smith would therefore have to purchase a new vehicle if this asset were liquidated. Additionally, requiring Ms. Smith to pay down the student loan would still leave approximately \$20,000 due, and there is no showing that Ms. Smith would have the ability to satisfy this part of the student loan after liquidating the vehicle and paying \$5000. For these reasons, liquidation of the asset would be inappropriate.

*Conclusion*

Based on review of the Attestation, it is appropriate for the Department attorney to conclude that Ms. Smith is entitled to a discharge of her student loans. She does not have a current ability to pay her loans while maintaining a minimal standard of living; this inability is likely to persist into the future; and she has made good faith efforts to repay her loans. In addition, she does not have any assets that are reasonably available for liquidation.

The Department attorney should contact Ms. Smith's counsel and indicate the United States would be willing to enter into a stipulation that Ms. Smith has shown undue hardship under Section 523(a)(8) and recommend the Court grant her a judgment discharging her loans.

IN THE UNITED STATES BANKRUPTCY COURT  
FOR THE DISTRICT OF DELAWARE

In re: )  
)  
JANE SMITH, ) Case No.  
) Chapter [7]  
Debtors. )  
)  
\_\_\_\_\_)  
)  
JANE SMITH, )  
)  
Plaintiff, ) Adversary Pro. \_\_\_\_\_  
)  
v. )  
)  
UNITED STATES DEPARTMENT )  
OF EDUCATION, [et al.], )  
)  
Defendant[s]. )  
\_\_\_\_\_)

ATTESTATION OF JANE SMITH IN SUPPORT  
OF REQUEST FOR STIPULATION CONCEDING  
DISCHARGEABILITY OF STUDENT LOANS

I, JANE SMITH, make this Attestation in support of my claim that excepting the student loans described herein from discharge would cause an “undue hardship” to myself and my dependents within the meaning of 11 U.S.C. §523(a)(8). In support of this Attestation, I state the following under penalty of perjury:

I. PERSONAL INFORMATION

1. I am over the age of eighteen and am competent to make this Attestation.
2. I reside at 123 Main Street, Towson MD 20204, in Baltimore County, Maryland.
3. My household includes the following persons (including myself):

NAME:            AGE:            RELATIONSHIP:

*Jane Smith    30 years    [self]*

*Sarah Smith   10 years    daughter*

***Questions four through nine request information related to your outstanding student loan debt and your educational history. The Department of Education will furnish this information to the Assistant United States Attorney (“AUSA”) handling your case, and it should be provided to you. If you agree that the information provided to you regarding your student loan debt and educational history is accurate, you may simply confirm that you agree, and these questions do not need to be completed. If you have not received the information from Education or the AUSA at the time you are completing this form, or if the information is not accurate, you may answer these questions based upon your own knowledge. If you have more than one student loan which you are seeking to discharge in this adversary proceeding, please confirm that the AUSA has complete and accurate information for each loan, or provide that information for each loan.***

4.        I confirm that the student loan information and educational history provided to me and attached to this Attestation is correct: YES / NO [If you answered “NO,” you must answer questions five through nine].

5.        The outstanding balance of the student loan[s] I am seeking to discharge in this adversary proceeding is \$26,369.

6.        The current monthly payment on such loan[s] is \$132. The loan[s] are scheduled to be repaid in ??? [month and year] [OR] \_\_\_\_ My student loan[s] went into default in June 2012 [month and year].

7.        I incurred the student loan[s] I am seeking to discharge while attending John Doe Community College, where I was pursuing a nursing degree with a specialization in n/a.

8.        In \_\_\_\_\_ [month and year], I completed my course of study and received a \_\_\_\_\_ degree [OR] In December 2010 [month and year], I left my course of study and did not receive a degree.



9. I am currently employed as a certified nursing assistant. My employer's name and address is Baltimore County Hospital, Baltimore MD [OR] \_\_\_\_\_ I am not currently employed.

## II. CURRENT INCOME AND EXPENSES

10. I do not have the ability to make payments on my student loans while maintaining a minimal standard of living for myself and my household. I submit the following information to demonstrate this:

### A. Household Gross Income

11. My current monthly household **gross** income from all sources is \$3900.<sup>1</sup>

This amount includes the following the following monthly amounts:

\$3900 my **gross** income from employment (if any)  
\_\_\_\_\_ my unemployment benefits.  
\_\_\_\_\_ my Social Security Benefits  
\_\_\_\_\_ my child support  
\_\_\_\_\_ my \_\_\_\_\_  
\_\_\_\_\_ my \_\_\_\_\_  
\_\_\_\_\_ **gross** income from employment of other members of household  
\_\_\_\_\_ unemployment benefits received by other members of household  
\_\_\_\_\_ Social Security benefits received by other members of household  
\_\_\_\_\_ other income from any source received by other members of household

12. The current monthly household gross income stated above (select which applies):

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<sup>1</sup> "Gross income" means your income before any payroll deductions (for taxes, Social Security, health insurance, etc.) or deductions from other sources of income. You may have included information about your gross income on documents previously filed in your bankruptcy, including Form B 106I, Schedule I - Your Income (Schedule I). If you filed your Schedule I within the past 18 months and the income information on those documents has not changed, you may refer to that document for the income information provided here. If you filed Schedule I more than 18 months prior to this Attestation, or your income has changed, you should provide your new income information.

X   Includes a monthly average of income shown on the most recent tax return[s] filed for myself and other members of my household, which are attached, and the amounts stated on such tax returns have not changed materially since the tax year of such returns; OR

           Represents an average amount calculated from the most recent two months of gross income stated on four (4) consecutive paystubs from my current employment, which are attached; OR

           My current monthly household gross income is not accurately reflected on either recent tax returns or paystubs from current employment, and I have submitted instead the following documents verifying current gross household income from employment of household members: \_\_\_\_\_

13. In addition, I have submitted \_\_\_\_\_ verifying the sources of income other than income from employment, as such income is not shown on [most recent tax return[s] or paystubs].

***B. Monthly Expenses***

14. My current monthly household expenses do not exceed the amounts listed below based on the number of people in my household for the following categories [Indicate “yes” if your expenses do not exceed the referenced amounts]:

***(a) Living Expenses<sup>2</sup>***

- |    |                       |                        |
|----|-----------------------|------------------------|
| i. | Food                  | <b><i>YES / NO</i></b> |
|    | \$431 (one person)    |                        |
|    | \$779 (two persons)   |                        |
|    | \$903 (three persons) |                        |
|    | \$1028 (four persons) |                        |

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<sup>2</sup> The living expenses listed in Question 14 and 15 have been adopted from the Internal Revenue Service Collection Financial Standards “National Standards” and “Local Standards” for the year in which this form is issued. This form is updated annually to reflect changes to these expenses.

- |      |   |                 |
|------|---|-----------------|
| ii.  | Housekeeping supplies<br>\$40 (one person)<br>\$82 (two persons)<br>\$74 (three persons)<br>\$85 (four persons)   | <b>YES / NO</b> |
| iii. | Apparel & Services<br>\$99 (one person)<br>\$161(two persons)<br>\$206 (three persons)<br>\$279 (four persons)  | <b>YES / NO</b> |
| iv.  | Personal care products and services<br>(non-medical)<br>\$45 (one person)<br>\$82 (two persons)<br>\$78 (three persons)<br>\$96 (four persons)                      | <b>YES / NO</b> |
| v.   | Uninsured medical costs<br>\$75 (per individual under 65)<br>\$153 (per individual over 65)   | <b>YES / NO</b> |
| vi.  | Miscellaneous expenses<br>not included elsewhere on this Attestation:<br>\$170 (one person)<br>\$306 (two persons)<br>\$349 (three persons)<br>\$412 (four persons) | <b>YES / NO</b> |

**(b) Households Greater Than Four Persons**

If your household consists of more than four people, please provide your *total* expenses for the categories in Question 14(a): \$ \_\_\_\_\_

[If you filed a Form 122A-2 Chapter 7 Means Test or 122C-2 Calculation of Disposable Income in your bankruptcy case, you may refer to lines 6 and 7 of those forms for information.]<sup>3</sup>

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<sup>3</sup> Forms 122A-2 and 122C-2 are referred to collectively here as the “Means Test.” If you filed a Means Test in your bankruptcy case, you may refer to it for information requested here and in other expense categories below. If you did not file a Means Test, you may refer to your Schedule I and Form 106J – Your Expenses (Schedule J) in the bankruptcy case, which may also list information relevant to these categories. You should only use information from these documents if your expenses have not changed since you filed them.

(c) Excess Expenses

If your current monthly household expenses exceed the amounts listed above for any of the categories in Question 13(a) and you would like the AUSA to consider such additional expenses as necessary, you may list those expenses and explain the need for such expenses here.

I buy inhalers and medications for my daughter, who has asthma, and the total cost not covered by insurance is approximately \$150 per month.

15. My current monthly household expenses in the following categories are as follows:

(a) Payroll Deductions

i. Taxes, Medicare and Social Security \$400  
[You may refer to line 16 of the Means Test or Schedule I, line 5]

ii. Contributions to retirement accounts \$ 0  
[You may refer to line 17 of the Means Test or Schedule I, line 5]

Are these contributions required  
as a condition of your employment? YES / NO

iii. Union dues \$ n/a  
[You may refer to line 17 of the Means Test or Schedule I, line 5]

iv. Life insurance \$ n/a  
[You may refer to line 18 of the Means Test or Schedule I, line 5]

Are the payments for a term policy  
covering your life? YES / NO

v. Court-ordered alimony and child support \$ n/a  
[You may refer to line 19 of the Means Test or Schedule I, line 5]

vi. Health insurance \$200  
[You may refer to line 25 of the Means Test or Schedule I, line 5]

Does the policy cover any persons other than  
yourself and your family members? YES / NO

vii.	Other payroll deductions	\$ <u>n/a</u>
	_____	\$ _____
	_____	\$ _____

(d) Housing Costs<sup>4</sup>

i.	Mortgage or rent payments	\$ <u>500</u>
ii.	Property taxes (if paid separately)	\$ <u>n/a</u>
iii.	Homeowners or renters insurance (if paid separately)	\$ <u>15</u>
iv.	Home maintenance and repair (average last 12 months' amounts)	\$ <u>n/a</u>
v.	Utilities (include monthly gas, electric water, heating oil, garbage collection, residential telephone service, cell phone service, cable television, and internet service).	\$ <u>250</u>

(e) Transportation Costs

i.	Vehicle payments (itemize per vehicle)	\$ <u>400</u>
ii.	Monthly average costs of operating vehicles (including gas, routine maintenance, monthly insurance cost)	\$ <u>350</u>
iii.	Public transportation costs	\$ <u>n/a</u>

(f) Other Necessary Expenses

i.	Court-ordered alimony and child support payments (if not deducted from pay) [You may refer to line 19 of Form 122A-2 or 122C-2 or Schedule J, line 18]	\$ <u>n/a</u>
ii.	Babysitting, day care, nursery and preschool costs [You may refer to line 21 of Form 122A-2 or 122C-2 or Schedule J, line 8] <sup>5</sup>	\$ <u>150</u>

<sup>4</sup> You should list the expenses you actually pay in Housing Costs and Transportation Costs categories. If these expenses have not changed since you filed your Schedule J, you may refer to the expenses listed there, including housing expenses (generally on lines 4 through 6 of Schedule J) and transportation expenses (generally on lines 12, 15c and 17).

<sup>5</sup> Line 8 of Schedule J allows listing of expenses for "childcare and children's education costs." You should not list any educational expenses for your children here, aside from necessary nursery or preschool costs.

Explain the circumstances making it necessary for you to expend this amount:

I have to send my daughter to before care and after care for school because her school day is from 7:45-3:00 but I work from 7:00-3:30. This is what her school charges.

- iii. Health insurance \$ n/a  
(if not deducted from pay)  
[You may refer to line 25 of the Means Test or Schedule J, line 15]

Does the policy cover any persons other than yourself and your family members? YES / NO

- iv. Life insurance \$ n/a  
(if not deducted from pay)  
[You may refer to line 25 of the Means Test or Schedule J, line 15]

Are the payments for a term policy covering your life? YES / NO

- v. Dependent care (for elderly or disabled family members). \$ n/a  
[You may refer to line 26 of the Means Test or Schedule J, line 19]

Explain the circumstances making it necessary for you to expend this amount:

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- vi. Payments on delinquent federal, state or local tax debt \$ n/a  
[You may refer to line 35 of the Means Test or Schedule J, line 17]

Are these payments being made pursuant to an agreement with the taxing authority? YES / NO

- vii. Payments on other student loans \$ n/a  
I am not seeking to discharge

- viii. Other expenses I believe necessary for \$ n/a

a minimal standard of living.

Explain the circumstances making it necessary for you to expend this amount:

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16. After deducting the foregoing monthly expenses from my household gross income, I have \$128 remaining income.

17. In addition to the foregoing expenses, I anticipate I will incur additional monthly expenses in the future for my, and my dependents', basic needs which are currently not met.<sup>6</sup>

These include the following:

*I live in a basement apartment at my mother's house, but it is not possible to live there anymore with my daughter turning 10 years old. We don't have our own kitchen and the living space is too small. I have found an apartment in our area near where I work for \$1300 per month. We are hoping to move there in a few months.*

### III. FUTURE INABILITY TO REPAY STUDENT LOANS

18. For the following reasons, it should be presumed that my financial circumstances are unlikely to materially improve over a significant portion of the repayment period (answer all that apply):

I am over the age of 65.

The student loans I am seeking to discharge have been repayment status for at least ten years (excluding any period which I was enrolled as a student).

I did not complete the education for which I incurred the student loan[s].

I have a permanent disability or chronic injury which renders me unable to work or limits my ability to work.

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<sup>6</sup> If you have forgone expenses for any basic needs and anticipate that you will incur such expenses in the future, you may list them here and explain the circumstances making it necessary for you to incur such expenses.

Describe the disability or injury and its effects on your ability to work, and indicate whether you receive any governmental benefits attributable to this disability or injury:

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I have been unemployed for at least five of the past ten years.

Please explain your efforts to obtain employment.

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19. For the following additional reasons, my financial circumstances are unlikely to materially improve over a significant portion of the repayment period (answer all that apply):

I incurred student loans I am seeking to discharge in pursuit of a degree I was unable to complete for reasons other than the closure of the educational institution.

Describe your reasons for being unable to complete the degree:

*I was in nursing school but had to drop out to care for my daughter.*

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I am not currently employed.

I am currently employed, but I am unable to obtain employment in the field for which I am educated or have received specialized training.

Describe reasons for inability to obtain such employment, and indicate if you have ever been able to obtain such employment:



I was in nursing school but did not complete my degree, so I cannot get a job as a nurse. I work as a nursing assistant.

X I am currently employed, but my income is insufficient to pay my loans and unlikely to increase to an amount necessary to make substantial payments on the student loans I am seeking to discharge.

Please explain why you believe this is so:

I have looked for other jobs that pay more, but they require a degree. My current job does not offer any significant raises or promotions. I also need to work during the hours that my daughter is in school, so I can't work the night or weekend shifts at my current job even though it would pay more.

X Other circumstances exist making it unlikely I will be able to make payments for a significant part of the repayment period.

Explain these circumstances:

My daughter is ten years old. She has severe asthma, requiring inhalers and other medication. Because of these conditions, working a second job is not possible for me. I need to be at home to ensure she is safe after school, and I can't afford a babysitter or additional after school care.

#### IV. PRIOR EFFORTS TO REPAY LOANS

20. I have made good faith efforts to repay the student loans at issue in this proceeding, including the following efforts:

21. Since receiving the student loans at issue, I have made a total of \$ 0 in payments on the loans, including the following:

       regular monthly payments of \$        each.

       additional payments, including \$       , \$       , and \$       .

22. I have received no forbearances or deferments, for a period totaling        months.

23. I have attempted to contact the company that services or collects on my student loans or the Department of Education at least   10   times.

24. I have sought to enroll in one or more "Income Deferred Repayment Programs" or similar repayment programs offered by the Department of Education, including the following:

Description of efforts:

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25. [If you did not enroll in such a program]. I have not enrolled in an “Income Deferred Repayment Program” or similar repayment program offered by the Department of Education for the following reasons:

I had heard of repayment plans, but I was confused when I tried to ask my servicer about the plans. They did not explain how to sign up, and they told me I might end up paying a lot of taxes if I did a payment plan. I can't afford to pay additional taxes.

26. Describe any other facts indicating you have acted in good faith in the past in attempting to repay the loan, including efforts to obtain employment, maximize your income, or minimize your expenses:

I've always worked full time after my daughter was old enough to go to school. I can't work more hours because I have to take care of her on the weekends and after school. I have looked for higher paying jobs, but they all require degrees.

I drove a used car for a long time, but I had to buy a new car a few years ago because my old one was starting to need a lot of repairs and I needed a reliable car to get to work and take my daughter to school, doctors etc. I've been living with my mother for the past 4 years to try and save expenses, but I need to move to an apartment. I'll need to stay in this area, though, because this is where my job and my daughter's school are.

All of my paycheck goes toward providing my daughter and myself with our necessities, including groceries, clothes for her, and her school supplies.

#### V. CURRENT ASSETS

27. I own the following parcels of real estate:

Address:                      None

Owners:<sup>7</sup> \_\_\_\_\_

\_\_\_\_\_

Fair market value: \_\_\_\_\_

Total balance of mortgages and other liens. \_\_\_\_\_

28. I own the following motor vehicles:

Make and model: 2018 Toyota Camry

Fair market value: \$25,000

Total balance of Vehicle loans And other liens \$20,000

29. I hold a total of \$ 0 in retirement assets, held in 401k, IRA and similar retirement accounts.

30. I own the following interests in a corporation, limited liability company, partnership, or other entity:

Name of entity	State incorporated <sup>8</sup>	Type <sup>9</sup> and %age Interest
_____	_____	_____

<sup>7</sup> List by name all owners of record (self and spouse, for example)

<sup>8</sup> The state, if any, in which the entity is incorporated. Partnerships, joint ventures and some other business entities might not be incorporated.

<sup>9</sup> For example, shares, membership interest, partnership interest.

\_\_\_\_\_  
\_\_\_\_\_

31. I currently am anticipating receiving a tax refund totaling \$3,000

VI. ADDITIONAL CIRCUMSTANCES

32. I submit the following circumstances as additional support for my effort to discharge my student loans as an “undue hardship” under 11 U.S.C. §523(a)(8):

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

Pursuant to 28 U.S.C. § 1746, I declare under penalty of perjury that the foregoing is true and correct.

/s/ Jane Smith

Signature:

Jane Smith

Name:

Date: February 25, 2022