No. 15-485

In the Supreme Court of the United States

MARK WARREN TETZLAFF, PETITIONER
v.
EDUCATIONAL CREDIT MANAGEMENT CORPORATION

ON PETITION FOR A WRIT OF CERTIORARI TO THE UNITED STATES COURT OF APPEALS FOR THE SEVENTH CIRCUIT

MOTION OF GORDON WAYNE WATTS FOR LEAVE TO INTERVENE OR JOIN AS PLAINTIFF-PETITIONER IN ORDER TO FILE A PETITION FOR REHEARING

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PARTIES TO THE PROCEEDING

The only two parties to the proceeding are shown in the caption, so I will move on the the next point.

MOTION TABLE OF CONTENTS

Introductory Statement regarding JURISDICTION

This is an exceptionally odd case, where you have the juxtaposition of a non-party movant seeking intervention as a matter of right, as well as a rehearing motion, alleging that This Court needs to give this case a second look. – Since it might not be clear at first glance how a non-party, such as myself, could seek a rehearing, let me 'step' you through the process, shall we?

STEP 1: Let's assume *arguendo* that This Court accepts my assertion that I have a right to intervene and/or join. At least one of these (possibly both) would give me "party status."

STEP 2: Then, as a party, I have a right to seek rehearing of a wrongly-decided case.

PS: I invoke Rule 14(1)(c) and shall not have a table of citations, needed only if "the petition...exceeds five pages if prepared under Rule 33.2," which is the case here.

A word needs to be said about the timeliness issue:

Since This Court handed down a decision in this case on Monday, January 11, 2016, then time runs, giving me 25 days (Rule 44.2) in which I may file a petition for rehearing, with the day of the act not counted (Rule 30). – So, today, Friday, February 5, 2016, is the last day to file – and, I am so filing. Thus, a grant of my petition to intervene would retroactively effect a resurrection to this case, and thus, *"nunc pro tunc"* travel backwards in time to change the time-line of history (which has this case being dismissed because Tetzleff failed to request a rehearing).

Obiter dictum: My deepest apologies for waiting until the 'last minute' to file, but *inter alia,* I needed all week long to compile/collate records to gather accurate financial data for my IPF *(In Forma Pauperis)* application: I'm actually so poor that I can't pay the $500.oo filing fee, and I'm not some dishonest bloke who would just "throw numbers together" when making such a poverty *In Forma Pauperis* declaration, thus I had a huge headache and delay in filing – bringing us right down to the wire. – Various other personal responsibilities also delayed me – my apologies, if there is any inconvenience or confusion.

'SUMMARY' Statement of the Case

Not much needs to be said here, so I will be brief: The petitioner, Mr. Tetzlaff, through his attorney, Doug Hallward-Driemeier, argues to be allowed to file for bankruptcy for his student loan. He seems to be making two arguments: One an 'internal' inconsistency (the circuits are split on the application of the *Brunner* test), and also a weak 'absolute' inconsistency argument (i.e., inconsistency with the US Constitution's 'uniformity' clause: U.S. Const. Art. I, § 8, Cl. 4), e.g., an implication that the law, as applied (and maybe as written) is unconstitutional.

Reasons for granting the Motion (argument)

Here's the 'short' version if you want to skip this section & save yourself some time (judicial economy), for the sake of brevity: Counselor Hallward-Driemeier and his firm have written a very interesting petition and reply brief, showing both the history of U.S. Bankruptcy Law as well as a showing how the opposing counsel (and/or her firm) have "flip-flopped" on a number of legal positions, but, in the end, "flip-flops" are not legally relevant to the Constitutionally of any law (tho a very interesting read!), and, as my rights and interests are directly implicated by This Court's decision, despite Hallward-Driemeier being an expert in bankruptcy law (and even with the benefit of me sending him some of my own legal research), he (no disrespect meant) abysmally failed to represent my interests here. He did, however, make one good point, worth repeating: Page 12 (Reply brief), Arg. III, states: "THIS CASE COULD BE THE LAST AVAILABLE VEHICLE TO RESOLVE A CRITICAL CIRCUIT SPLIT, AS ALMOST EVERY CIRCUIT HAS RULED," since, of course "pro se debtors face certain loss in the lower courts and lack resources to pursue several layers of futile appeals for the chance to seek this Court's discretionary review." (Reply brief, p. 12).

If this is the last stop before the train leaves the station, and you have an Unconstitutional Law on the books, it might be worth reconsideration—and rehearing.

Here's the 'longer' version: I represent to This Court that Counselor Hallward-Driemeier has indicated to me, in private communications, that this case is over, implying that he is not seeking a rehearing. (Even assuming *arguendo* that he *did* seek a rehearing, I doubt that he could put on as good a case as I intend to put on, so my rights & interests in a case before This Court **are *not* being defended**—thus, intervention is necessary. **This Court's precedents confirm that joinder or intervention is proper here:** This Court has previously granted motions to join or intervene both at the certiorari and merits stages. See, e.g., *Gonzales v. Oregon*, 546 U.S. 807 (2005); *Hunt v. Cromartie*, 525 U.S. 946 (1998); *Hunter v. Ohio ex rel. Miller*, 396 U.S. 879 (1969); *Banks v. Chicago Grain Trimmers Ass'n*, 389

U.S. 813 (1967). Moreover, it has specifically permitted joinder or intervention in analogous circumstances to address potential mootness issues, including those resulting from the potential death or dissolution of existing parties. See, e.g., *Gonzales*, 546 U.S. at 807 (granting additional terminally-ill patients leave to intervene in litigation regarding the Oregon Death With Dignity Act, where existing terminally-ill parties might die before proceedings reached their conclusion); *Nat'l Fed. of Indep. Bus. v. Sebelius*, 132 S. Ct. 1133, 1133 (2012) (permitting new business owners to join where named business owner was entering bankruptcy). Because movant's participation in this case accords with Rule 24 and 21, as well as this Court's precedent, the motion should be granted. This Court has previously granted parties leave to intervene or join in analogous circumstances in which the addition of a similarly-situated party was necessary, *inter alia,* to ensure a continued interest in the case. Movant also meets all the criteria under which appellate courts, including This Court, typically evaluate whether intervention or joinder is proper, using F.R.Civ.P. 21 or 24 as a guide. Movant has obvious & substantial interest in petitioner's action, since he has an outstanding college loan which, due to the 'Predatory Lending' nature of the loan, was vastly inflated far about the Free Market value, due both to interference in the Free Market (government loans), monopoly (as legally defined), as well as a violation of long-standing Contract Law (since, of course, the change in Federal Law changed the terms of the loan contract). As well, current law is in violation of "Void for Vagueness" standards (due to lack of proper notice that student loans lack all standard consumer protections), among other defects. R.24(a)(2) provides intervention as of right when a party "claims an interest relating to the property or transaction that is the subject of the action, and is so situated that disposing of the action may as a practical matter impair or impede the movant's ability to protect its interest, unless existing parties adequately represent that interest." Fed.R.Civ.P. 24(a)(2). Generally, a "party seeking to intervene as of right must meet four requirements: **(1)** the applicant must timely move to intervene; **(2)** the applicant must have a significantly protectable interest relating to the property or transaction that is the subject of the action;

(3) the applicant must be situated such that the disposition of the action may impair or impede the party's ability to protect that interest; and **(4)** the applicant's interest must not be adequately represented by existing parties." *Arakaki v. Cayetano*, 324 F.3d 1078, 1083 (9th Cir. 2003); see also *Fund for Animals, Inc. v. Norton*, 322 F.3d 728, 732 (D.C. Cir. 2003) (applying similar standard). Courts construe these requirements liberally, "in favor of intervention." *Donnelly v. Glickman*, 159 F.3d 405, 409 (9th Cir. 1998); *Purnell v. City of Akron*, 925 F.2d 941, 950 6th Cir. 1991) ("Rule 24 is broadly construed in favor of potential intervenors.").

1) Addressing Timeliness: This motion is timely. Although courts evaluating timeliness consider "the totality of the circumstances," *United States v. Alcan Aluminum, Inc.*, 25 F.3d 1174, 1181 (3d Cir. 1994), "[p]rejudice is the heart of the timeliness requirement," Jones v. Caddo Parish Sch. Bd., 735 F.2d 923, 946 (5th Cir. 1984) (en banc). Indeed, "courts are in general agreement that an intervention of right under Rule 24(a) must be granted unless the petition to intervene would work a hardship on one of the original parties." *McDonald v. E.J. Lavino Co.*, 430 F.2d 1065, 1073 (5th Cir. 1970) (citation omitted). Here, movant possesses the same interest as petitioner and seeks the same relief. Movant will present new arguments on the merits, but, since this is the same outcome that might have happened had Hallward-Driemeier sought rehearing, this adds no unexpected burden on respondents. Thus, respondents will not be prejudiced by movant's intervention.

2) Significant Protectable Interest: Movant also has a significant protectable interest in this action. As this Court has acknowledged, the 1966 revisions to the Federal Rules of Civil Procedure expanded the circumstances in which an absentee's interest is sufficient to warrant intervention. See *Cascade Natural Gas Corp. v. El Paso Natural Gas Co.*, 386 U.S. 129, 133-34 (1967). Today, "[i]f an absentee would be substantially affected in a practical sense by the determination made in an action, he should, as a general rule, be entitled to intervene." Id. at 134 n.3 (emphasis altered) (quoting Fed. R. Civ. P. 24 advisory committee's note to 1966 amendments); *Nuesse v. Camp*, 385 F.2d 694, 700 (D.C. Cir.

1967) ("[T]he 'interest' test is primarily a practical guide to disposing of lawsuits by involving as many apparently concerned persons as is compatible with efficiency and due process."). For several reasons, that standard is met here: Movant's college loan contract, which was altered by change in Federal Law, violates long-held Contract Law. Also, Movant is more of an expert in this area of law than Tetzlaff's attorneys, and thus would aid This Court in understanding the problem.

3.) Disposition Of This Action Would Impair Movant's Ability To Protect His Interest: This is so obvious as to not warrant further discussion. I would have to litigate a case all the way to This Court, in poverty and pro se, just to *"get back to square one."* I'm already *on* 'square one,' and it was hard enough for me to cobble together this petition, so please don't throw me off.

4.) Movant's Interests Would Not Be Adequately Represented By Existing Party, Tetzlaff: All you have to do to test this claim is read my petition, here, and see if the existing party has (or is likely) to raise the same points to assert that existing bankruptcy law is unconstitutional on a myriad of fronts. [However, movant also meets requirements for permissive intervention: F.R.Civ.P. 24(b)(1)(B) provides that "[o]n timely motion, the court may permit anyone to intervene who…has a claim or defense that shares with the main action a common question of law or fact." F.R.Civ.P. 24(b)(1)(B). In exercising its discretion to permit intervention, "the court must consider whether the intervention will unduly delay or prejudice the adjudication of the original parties' rights." Fed. R. Civ. P. 24(b)(3).]

THE MOTION TO JOIN SHOULD ALSO GRANTED

Movant also seeks to join this action as an additional petitioner. Joinder under F.R.Civ.P. 21 is even broader than Permissive Intervention under R.24(b). Rule 21 provides a court may join parties to an action "[o]n motion [of any party] or on its own…at any time [and] on just terms." Fed.R.Civ.P. 21; *Newman-Green, Inc. v. Alfonzo-Larrain*, 490 U.S. 826, 832 (1989) (noting the policies behind R.21 apply to appellate courts). Indeed, This Court frequently exercises its authority to add similarly-situated parties to avoid potential mootness or other jurisdictional problems where doing so entails no prejudice

to parties, and requiring the movant "to start over in the District Court would entail needless waste and run[] counter to effective judicial administration." *Mullaney v. Anderson*, 342 U.S. 415, 417 (1952). Joinder is warranted here for identical reasons.

Conclusion

Even *if* movant could start over in district court, it would entail needless waste and run counter to "efficient judicial administration." For the foregoing reasons, the motions to intervene and join should be granted.

Respectfully submitted,

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Friday, 05 February 2015

PROOF (CERTIFICATE) OF SERVICE

Although not normally included in the petition proper, I am including this cert. of service as one document "for the sake of judicial economy" when preparing, printing, and serving (including by email) – all documents (excepting the IFP petition) as one document.

I, Gordon Wayne Watts, do swear or declare that on this date, Friday 05 February 2015, as required by Supreme Court Rule 29, I have served the enclosed "MOTION OF GORDON WAYNE WATTS FOR LEAVE TO INTERVENE OR JOIN AS PLAINTIFF-PETITIONER IN ORDER TO FILE A PETITION FOR REHEARING" (above) as well as my "MOTION FOR REHEARING" (below) on each party to the above proceeding or that party's counsel, and on every other person required to be served, by depositing an envelope containing the above documents in the United States mail properly addressed to each of them and with first-class postage prepaid, or by delivery to a third-party commercial carrier for delivery within 3 calendar days. Specifically, I am now serving the following parties:

• Supreme Court of the United States, 1 First Street, N.E., Washington, DC 20543, ATTN: Clerk of the Court, (202) 479-3011, MeritsBriefs@SupremeCourt.gov

• Douglas Hallward-Driemeier, Counsel for Petitioner, MARK WARREN TETZLAFF, c/o: Ropes & Gray LLP, 700 12th Street, N.W., Suite 900, Washington, DC 20005, (202) 508-4776, Douglas.Hallward-Driemeier@RopesGray.com

• Natalie R. Eness, Counsel of Record for Respondent, ECMC 1 Imation Place, Bldg 2 Oakdale, MN 55128 (651) 325-3636, neness@ecmc.org

*** Furthermore, I hereby certify that, contemporaneous to my service by FedEx 3rd-party commercial carrier and/or USPS, I am also serving all parties by email.

*** Furthermore, I hereby certify that, in addition to the foregoing and in addition to any availability of my brief that The Court may make available for download, I am also making both my brief and this certificate available for open-source (free) download, as soon as practically possible on the front-page news of The Register, whose links are as follows:
http://www.GordonWatts.com
and:
http://www.GordonWayneWatts.com

PROOF (CERTIFICATE) OF COMPLIANCE

Although Rule 33.1(h) does not require *In Forma Pauperis* pleadings to certify, as a courtesy, I am certifying that my pleadings comport to the page requirements for pleadings of this sort: "40 pages for a petition for a writ of certiorari, jurisdictional statement, petition for an extraordinary writ, brief in opposition, or motion to dismiss or affirm; and 15 pages for a reply to a brief in opposition, brief opposing a motion to dismiss or affirm, supplemental brief, or petition for rehearing." (Rule 33.2b)

Friday, 05 February 2015

_____
s/ Gordon Wayne Watts
Email: Gww1210@aol.com, Gww1210@gmail.com

No. 15-485

In the Supreme Court of the United States

MARK WARREN TETZLAFF, and GORDON WAYNE WATTS, PETITIONERS
v.
EDUCATIONAL CREDIT MANAGEMENT CORPORATION

ON PETITION FOR A WRIT OF CERTIORARI
TO THE UNITED STATES COURT OF APPEALS
FOR THE SEVENTH CIRCUIT

PETITION FOR REHEARING

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Introductory Statement

I invoke Rule 14(1)(c) and shall not have a table of citations, needed only if "the petition...exceeds five pages if prepared under Rule 33.2," which is the case here.

This Court will be happy that I can make my arguments in under five (5) pages again, as above.

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Reasons for granting the Petition for Rehearing (argument)

Counsel for Tetzlaff made several good arguments, namely the fact remains: There is a split among the Federal Circuit Courts of Appeal on the definition (and application) of the *Brunner* test. This reason alone was sufficient for This Court to take the case. (It puzzles me, then, why This Court declined Certiorari.)

Also, Tetzlaff suggested (implied) that Title 11, Section 523(a)(8) of U.S. Code is unconstitutional because it creates "non-uniform" bankruptcy law, running afoul of Art. I, Sec. 8, Cl. 4 of the U.S. Constitution. However, Tetzlaff's argument here seemed to be a lack of uniformity between the circuits (e.g., internal inconsistency—wherein some college loans are treated differently based on which circuit court of appeals encompasses them). Yes, that is a good argument, but Tetzlaff missed the bigger argument: College Loans in general are treated differently than – for example – Credit Card Loans. (This implicated Equal Protection and violates Art. I, Sec. 8, Cl. 4,U.S. Const.)

Important *Obiter Dictum*: Though not legally relevant to the law being challenged, I feel constrained to point out a few salient facts, so This Court will be assured I'm not some "Yahoo" or "legal dummy" that is wasting its time. **First**, I nearly won the famous Terri Schiavo case—*all by myself*—**on the *merits*:** My pleading got past the clerk, who rules on technical issues and was voted on the merits by the Justices, denying me 4-3, which did better than Gov. Jeb Bush before the same panel. (He lost 7-0. See APPENDIX-A) **Secondly,** the U.S. 11th Circuit Court of Appeals allowed me to file *Amici Curiae* briefs, *pro se*, while no other *pro se* litigants were allowed to participate there -or elsewhere. (See APPENDIX-B) **Third,** while This Court did not see fit to allow me to file an Amicus brief, pro se (*In re Watts*, No. 14-8744), it nonetheless was kind enough to review my brief, as This Court's Justices have promised in many news interviews. This is evidenced by the fact that This Court accidentally docketed me in error in the famous 'Gay Marriage' case, *Obergefell et al., v. Hodges*, dated February 04, 2015 (showing Watts was docketed in error; Court thought he was a lawyer: See APPENDIX-C). Also,

This Court has visited my website numerous times. (See APPENDIX-D for one representative visit.) **Lastly,** my skill is put to good use in a legal treatise on U.S. Bankruptcy Law (See APPENDIX-D), the subject of this petition for rehearing.

Problems with U.S. Bankruptcy Law as touching Student Loans

To begin with, **College Loans Contracts** from decades ago had the terms of their loan contract changed, due to the change in Federal Law. This "changed the rules" of the horse races "mid-race," and (of course) violated long-standing case law, common law, and Constitutional Law regarding 'Contract Law.' Also, for the more recent college loans taken out, students are not adequately informed that their college loans lack ALL 'Standard Consumer Protections,' constituting Predatory Lending (think: sub-prime loans). **Here is a list of six (6) Common 'Standard Consumer Protections' – Student Borrowers are not told of their absence when they take out the loan:** (1) Lack of statutes of limitations; (2) Adherence to usury laws; (3) Fair Debt & Collection practices; **(4) The Free Market rights to refinance if a lender comes along with a lower rate** –or,most notably; (5) It is next to impossible for Student Loans to be eligible for bankruptcy –and, of course; (6) The lack of the "Truth in Lending" protection denies a student borrower the rights to know that he or she is not protected by "Truth in Lending." (Ironically, the very law itself prevents the borrower from knowing about said law.) This, of course, violates Laws "Void For Vagueness" standards, and thus violates DUE PROCESS for Lack of Notice. *The monopoly of the colleges / universities is also illegal as a matter of law. (I bold0faced #4, not because refinancing is any more important a right, but simply to show the absurdity of the current law—prohibiting students from refinancing their loans-implicating Equal Protection!)*

However, there were two (2) huge problems that Tetzlaff never addressed in his petition or reply: First, the very presence of the loans induced colleges to raise prices to match increased borrowing ability: In the 1950's, American Colleges/Universities were the best in the world, and not unaffordable. But, when loans were made available, colleges jacked up prices, inflating tuition, due to the subsidies:

students could afford more, but quality of education has declined, meaning the inflated tuition was not justified. Colleges no longer "live within their means," and students suffer as a result. Secondly, however, Americans recognise the 'Second Amendment,' the right to defend oneself, even if we disagree as to the precise application.

Well, the ability to file bankruptcies is the 'Economic Second Amendment,' and when colleges knew student loans were almost impossible to discharge in bankruptcy (due to the *Brunner* test). Petitioner, Mark Tetzlaff argues that "*Brunner*, based on a district court's flawed understanding of congressional intent, was erroneous when decided" (Petition, p.17). While *Brunner* was surely erroneous case-law, Tetzlaff is (I think) wrong to assume that 'congressional intent' was so good. Yes, it was probably not 'congressional intent' to almost kill the student, it was also not 'congressional intent' to pass Legislation that passes Constitutional muster. (The intent, I think, of the Congress was to protect huge banks, which made campaign contributions. Even if I erroneously misread the 'intent of Congress' – no disrespect meant to Lawmakers – the fact remains: The current law is unconstitutional on numerous fronts.)

If This Court could strike 'Gay Marriage' laws, deemed to be unconstitutional, even though other means existed[footnote-1] to offer relief, how much more could it offer relief to over-burdened college students.

———

[footnote 1: With all due respect, I am opposed to mistreating gay persons, but the recent *Obergefell* decision's message was no more correct than stating: "If we love alcoholics, we must make beer the national beverage." No, this is nonsense: Florida, which had a ban on gay marriages, nonetheless passed a law repealing the ban on gay adoptions—*before* *Obergefell* was passed—proving that *Obergefell* – while well-meaning – was an overreach and not necessary to achieve the goal of protecting gay people. So, just as we don't need to make beer the national beverage, we did not need to make gay marriage legal, but it is what it is. If gay marriage – a clear over-reach – was a remedy, how much more the remedy to hopelessly crushed college students, whose loans are impossible to discharge? If we allow the rich to discharge huge loans, why not college students? This would no require printing of more monies, and thus not be inflationary.]

Conclusion

One need only look at APPENDIX-E, which, had I been given more notice, I might have been able to "massage" into a brief, itself. But, as it stands, it is merely cited legal authority from a legal expert in the field. For the reasons elucidated in this treatise, the law, as it stands, is unconstitutional on its face—and as applied. A ruling by This Court would offer both petitioners, Mark Tetzlaff and Gordon Watts, the relief that we seek. The treatise in APPERNDIX-E is comprehensive and complete—and may stand on its own to defend these points, and clarify which relief is necessary.

Respectfully submitted,

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Friday, 05 February 2015

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APPENDIX A: Citations to show Watts' involvement in the famous 'Terri Schiavo' case (nearly won)

[1] *In Re: GORDON WAYNE WATTS (as next friend of THERESA MARIE 'TERRI' SCHIAVO)*, No. SC03-2420 (Fla. Feb.23, 2005), denied 4-3 on rehearing. (Watts got 42.7% of his panel) http://www.floridasupremecourt.org/clerk/dispositions/2005/2/03-2420reh.pdf

[2] *In Re: JEB BUSH, GOVERNOR OF FLORIDA, ET AL. v. MICHAEL SCHIAVO, GUARDIAN: THERESA SCHIAVO*, No. SC04-925 (Fla. Oct.21, 2004), denied 7-0 on rehearing. (Bush got 0.0% of his panel before the same court) http://www.floridasupremecourt.org/clerk/dispositions/2004/10/04-925reh.pdf

[3] *Schiavo ex rel. Schindler v. Schiavo ex rel. Schiavo*, 403 F.3d 1223, 2005 WL 648897 (11th Cir. Mar.23, 2005), denied 2-1 on appeal. (Terri Schiavo's own blood family only got 33.3% of their panel on the Federal Appeals level) http://media.ca11.uscourts.gov/opinions/pub/files/200511556.pdf

IN THE UNITED STATES COURT OF APPEALS

FOR THE ELEVENTH CIRCUIT

No. 14-14061-AA

JAMES DOMER BRENNER, *et al.*

Plaintiffs-Appellees,

versus

JOHN H. ARMSTRONG, *et al.*

Defendants-Appellants.

No. 14-14066-AA

SLOAN GRIMSLEY, *et al.*

Plaintiffs-Appellees,

versus

JOHN H. ARMSTRONG, *et al.*

Defendants-Appellants.

Appeals from the United States District Court
for the Northern District of Florida

APPENDIX B: Citations to show Watts' involvement in 'Gay Marriage' (allowed to participate 11th Cir.)

ORDER:

Clare Anthony Citro's motions for leave to file out of time and for leave to file a brief as *amicus curiae* are DENIED.

Gordon Wayne Watts's motion for leave to file an amended *amicus curiae* brief is GRANTED.

UNITED STATES CIRCUIT JUDGE

APPENDIX B: Citations to show Watts' involvement in 'Gay Marriage' (allowed to participate 11th Cir.)

UNITED STATES COURT OF APPEALS
FOR THE ELEVENTH CIRCUIT

ELBERT PARR TUTTLE COURT OF APPEALS BUILDING
56 Forsyth Street, N.W.
Atlanta, Georgia 30303

John Ley
Clerk of Court

For rules and forms visit
www.call.uscourts.gov

January 06, 2015

Anthony Citro
254 SW 7TH ST
DANIA, FL 33004-3948

Gordon Wayne Watts
821 ALICIA RD
LAKELAND, FL 33801-2113

Appeal Number: 14-14061-AA ; 14-14066 -AA
Case Style: James Brenner, et al v. John Armstrong, et al
District Court Docket No: 4:14-cv-00107-RH-CAS

This Court requires all counsel to file documents electronically using the Electronic Case Files ("ECF") system, unless exempted for good cause.

The enclosed order has been ENTERED.

Sincerely,

JOHN LEY, Clerk of Court

Reply to: David L. Thomas, AA/rvg
Phone #: (404) 335-6169

MOT-2 Notice of Court Action

APPENDIX B: Citations to show Watts' involvement in 'Gay Marriage' (allowed to participate 11th Cir.)

agerhardstein@GBLfirm.com

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(614) 466-8980

Party name: Richard Hodges, Director, Ohio Department of Health, et al.

Other:

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Party name: Idaho Governor C.L. "Butch" Otter

Gene Clayton Schaerr
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Party name: 76 Scholars of Marriage

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Party name: Colage; Equality Federation, et al.

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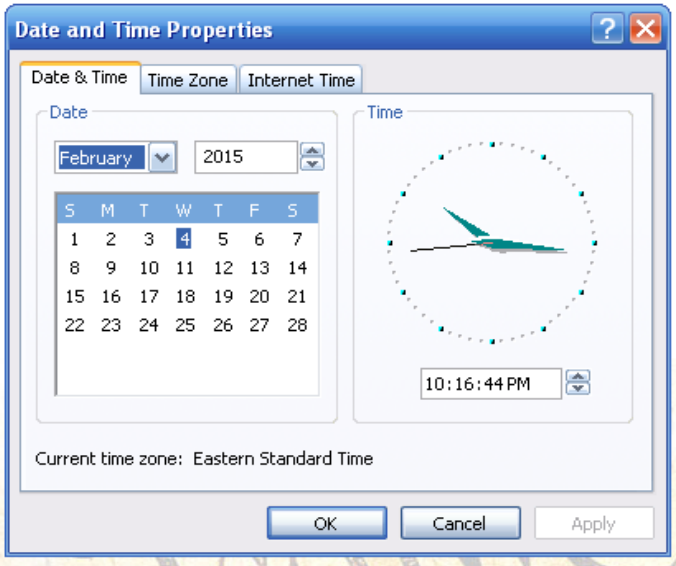
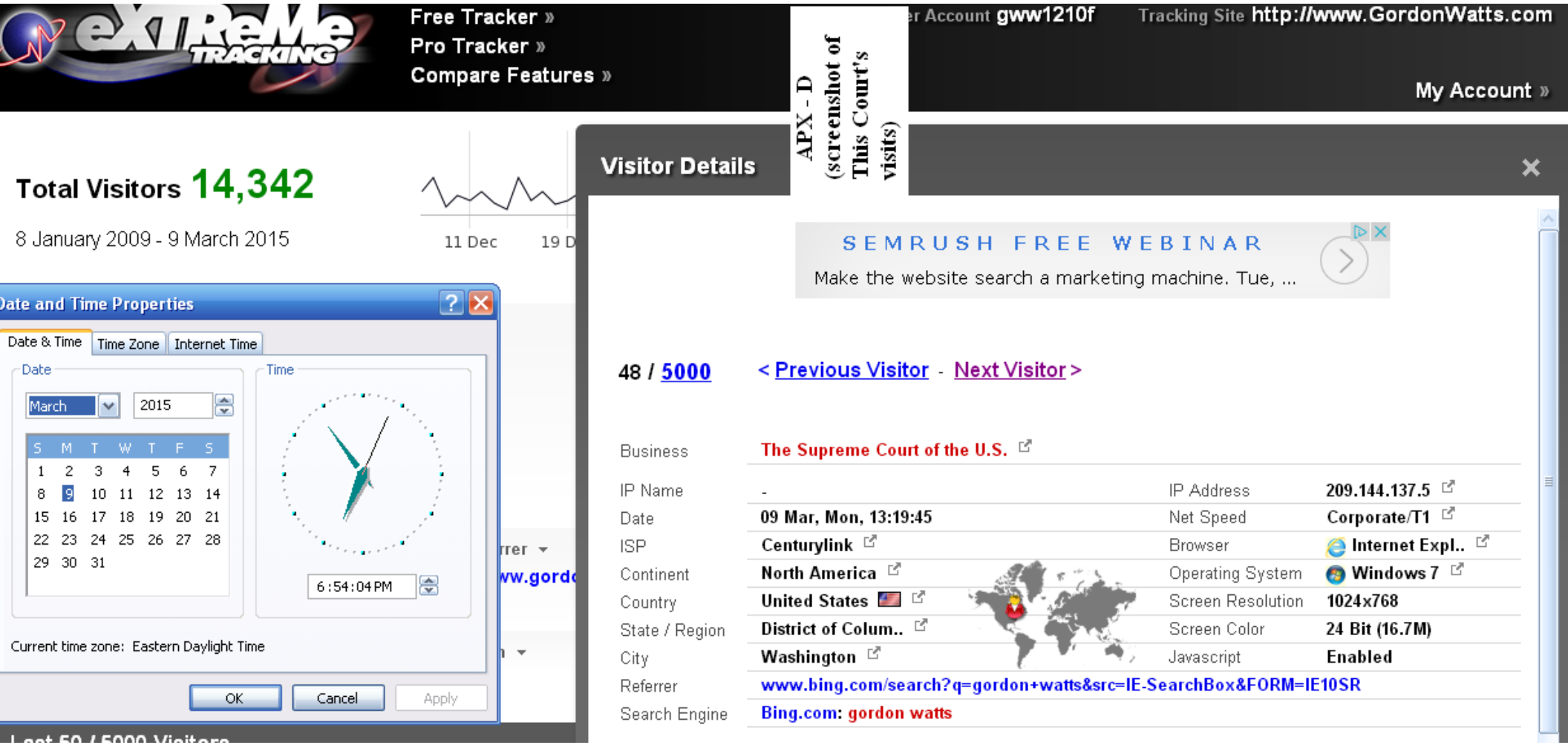
Party name: Gordon Wayne Watts in support of neither party



APPENDIX C: Screenshot of U.S. Supreme Court online docket for Obergefell et al., v. Hodges, dated February 04, 2015 (showing Watts was docketed in error; Court thought he was a lawyer)


eXTReMe TRACKING
Free Tracker »
Pro Tracker »
Compare Features »
Account gww1210f
Tracking Site http://www.GordonWatts.com
My Account »
APX - D (screenshot of This Court's visits)
Total Visitors 14,342
8 January 2009 - 9 March 2015
11 Dec
19 D
Visitor Details
SEMRUSH FREE WEBINAR
Make the website search a marketing machine. Tue, ...
Date and Time Properties
Date & Time
Time Zone
Internet Time
Date
March
2015
S M T W T F S
1 2 3 4 5 6 7
8 9 10 11 12 13 14
15 16 17 18 19 20 21
22 23 24 25 26 27 28
29 30 31
Time
6:54:04 PM
Current time zone: Eastern Daylight Time
OK
Cancel
Apply
48 / 5000
< Previous Visitor - Next Visitor >
Business
The Supreme Court of the U.S.
IP Name
-
IP Address
209.144.137.5
Date
09 Mar, Mon, 13:19:45
Net Speed
Corporate/T1
ISP
Centurylink
Browser
Internet Expl..
Continent
North America
Operating System
Windows 7
Country
United States
Screen Resolution
1024x768
State / Region
District of Colum..
Screen Color
24 Bit (16.7M)
City
Washington
Javascript
Enabled
Referrer
www.bing.com/search?q=gordon+watts&src=IE-SearchBox&FORM=IE10SR
Search Engine
Bing.com: gordon watts

APPENDIX E: Watts' research regarding Constitutional problems with current U.S. bankruptcy law

No. _____

_____

IN THE
SUPREME COURT OF THE UNITED STATES
and elsewhere, as indicated, herein

– BRIEF OF ACADEMICS and LAW –
Aide-mémoire Treatise / Position Paper
and: Petition for The Extraordinary Writs so named infra

In re: Higher Education laws of an Unconstitutional nature, and:
—various College / Student Loan-related Predatory Lending torts

ON PETITION FOR A WRIT OF CERTIORARI TO
THE U.S. SUPREME COURT

CONCURRENT Complaint Form before Petitions team,
Office for the High Commissioner for Human Rights, UN @ Geneva

This brief is also applicable***(**)*** as:
AN AMICUS CURIAE before any American Court
IN SUPPORT OF Positions described herein

PETITION FOR THE EXTRAORDINARY WRITS OF:
Habeas Corpus, Quo Warranto, Prohibition, and Mandamus

GORDON WAYNE WATTS, Petitioner / Friend of The Court
821 Alicia Road
Lakeland, Florida (U.S.A.) 33801-2113
Home Phone: (863) 688-9880
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LAYMAN OF THE LAW:
// x // Gordon W. Watts, PRO SE / PRO PER / in propria persona___
(**) Disclaimer: Mr. Watts is not a lawyer. _Revised: Tuesday, 06-30-2015

QUESTION(S) PRESENTED

PROBLEMS:

**** FEDERAL: CONSTITUTIONAL ** –** Whether existing AMERICAN Federal and State laws (Legislative Exercise) violate Constitutional Rights as guaranteed in the U.S. Constitution, and further clarified in recent Federal case law –including whether this, and related actions by other parties, violate the Constitutionally-protected religious freedoms of any victims.

**** INTERNATIONAL ** –** Whether said laws violate International Law touching Human Rights.

**** Focus: GOVERNMENT ** –** Whether the U.S. Government in it exercise of Executive Powers has violated any of the aforementioned standards, thereby committing torts.

**** Focus: Private Entities** –** Whether private entities (distinct from the Federal Government's making of -or exercise of -Laws) have violated any of the aforementioned standards, thereby committing torts.

SOLUTIONS:

**** REMEDIES ** –** What proposed remedy(ies) would be appropriate to address the given inequities and torts.

LIST OF PARTIES:

All parties do not appear in the caption of the cover page. A list of all parties to the proceedings herein includes, but is not limited to, the following:

. . .

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State Holdings

Federal Constitution

Table of Citations (continued)

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Federal Statutes

Federal Legislation: introduced

Federal Public Law: enacted

Federal Holdings

Table of Citations (continued)

Page Numbers

Federal Holdings (continued)

Table of Citations (continued)

Page Numbers

Federal Holdings (continued)

Table of Citations (continued)

Page Numbers

International Law

Other authorities:

INTRODUCTION

This brief focuses on the legality of certain actions, and the Constitutionality of certain Federal and State laws, with additional analyses against International Law—and, in addition, addresses various related torts, including (but not limited to) Predatory Lending and Contract Law. However, to set the tone for the paper, this much basic information is necessary: Since the middle of the 21st Century, College Tuition has gone up much faster than inflation, becoming more and more unaffordable, while American Higher education continues its decline, falling behind other nations. High school students are being "priced out" of a college education, and our nation suffers an academic drought, as a result. Another side-effect of this economic and social phenomenon is the fact that, for the first time in America's history, College Loan debt (aka: "Student Loan" debt) has now surpassed Credit Card debt, and now stands at about **One Trillion Dollars (U.S.D. $1,000,000,000,000.oo).**

The author of the instant brief, Mr. Gordon Wayne Watts, is NOT a lawyer, however, it is believed that he knows something about law, and that review of this brief would not be a "waste of time": Mr. Watts got 'yea' votes from nearly half his panel before Florida's High Court and, thus, came closer than all other parties combined in their attempts to "save Terri Schiavo" in his recent court action —doing better than former Fla. Gov. John Ellis 'Jeb' Bush (who also went before Florida's High Court -and garnered 0 of 7 votes on rehearing), or Terri Schiavo's own blood family (who only got about 33% of their Federal panel), to wit:

[1] In Re: GORDON WAYNE WATTS (as next friend of THERESA MARIE 'TERRI' SCHIAVO), No. SC03-2420 (Fla. Feb.23, 2003), denied 4-3 on rehearing.
* http://www.FloridaSupremeCourt.org/clerk/dispositions/2005/2/03-2420reh.pdf
* http://www.GordonWatts.com/03-2420reh.pdf
* http://www.GordonWayneWatts.com/03-2420reh.pdf

[2] In Re: JEB BUSH, GOVERNOR OF FLORIDA, ET AL. v. MICHAEL SCHIAVO, GUARDIAN: THERESA SCHIAVO, No. SC04-925 (Fla. Oct.21, 2004), denied 7-0 on rehearing.
* http://www.FloridaSupremeCourt.org/clerk/dispositions/2004/10/04-925reh.pdf
* http://www.gordonwatts.com/04-925reh.pdf
* http://www.gordonwaynewatts.com/04-925reh.pdf

[3] Schiavo ex rel. Schindler v. Schiavo ex rel. Schiavo, 403 F.3d 1223, 2005 WL 648897 (11th Cir. Mar.23, 2005), denied 2-1 on appeal.
* http://media.ca11.uscourts.gov/opinions/pub/files/200511556.pdf
* http://GordonWatts.com/200511628.pdf
* http://GordonWayneWatts.com/200511628.pdf

Watts' bid to "save Terri" nearly worked, in spite of defending one aspect of opposing party, Michael Schiavo, regarding the now-famous 'Terri's Law':

[4] "AMICUS CURIAE BRIEF BY AMICUS GORDON WATTS in support of Appellee, Michael Schiavo's petition to affirm":
http://www.FloridaSupremeCourt.org/pub_info/summaries/briefs/04/04-925/Filed_07-29-2004_AmicusGordonWatts.pdf
* http://GordonWayneWatts.com/SchiavoPhotos/SchiavoAmicus.pdf
* http://GordonWatts.com/SchiavoPhotos/SchiavoAmicus.pdf

The discussion about Watts' involvement in the unrelated 'Terri Schiavo' case has no legal bearing upon the issues raised in the instant brief, in the case at bar; however, they are a Sine Quo Non necessary element in order to demonstrate that Mr. Watts' knowledge of the law is sufficient to ensure that This Court's review will not be a frivolous waste of time—in spite of the fact that Watts is not a lawyer.

This mounting 'Student Loan' debt has caused a soaring default rate as well. (Student Loans are almost never eligible for bankruptcy, like most other loans, since the 'Undue Hardship' standard is next to impossible to meet, so default is the only option available for lack of repayment, if automatic wage-garnishment does not satisfy the debt.) While the instant brief in the case at bar does not argue for a total "Loan Forgiveness" (sensing that this would be an unjustified "Free Handout"), nonetheless, it should be acknowledged up front that the financial crisis is of such pressure that over one-million people have recently signed a petition asking for partial relief through H.R. 4170, the Student Loan Forgiveness Act of 2012, which grants forgiveness after 10 years' of repayment to qualified borrowers. **Please see this online petition started by well-known Students Rights advocate, Robert Applebaum, to verify this claim:** * http://SignOn.org/sign/support-the-student-loan

Cached / Saved copied here, in case SignOn's website is down:
* http://GordonWatts.com/FannyDeregulation/Million-Signature-Petition-SIGN-ON.JPG
* http://GordonWayneWatts.com/FannyDeregulation/Million-Signature-Petition-SIGN-ON.JPG
* http://GordonWatts.com/FannyDeregulation/Million-Signature-older-version-SIGN-ON.JPG
* http://GordonWayneWatts.com/FannyDeregulation/Million-Signature-older-version-SIGN-ON.JPG

"Online Petitions" normally should be ignored as unreliable, but this is an exception—here is why:
Please note that while one person may sign multiple times, he/she would have to create a separate account for each new signature, and, in all likelihood, it is tenable and safe to assume that most (if not all) the signatories utilised only one "SignOn" petition account. Also relevant is that there were 1,179,073 signatures as of 21 Oct. 2012, but as of 12 Nov. 2012, only 22 days later, there were 1,180,367 signatures, a difference of 1,294 signatures, or about 59 new signatures per day, which shows the rate has slowed down from its initial posting. Lastly, it is of key relevance that America has only about 314,753,238 citizens, as of 06:47am, Monday, 12 November 2012, according to the official U.S. Census website: http://www.census.gov/main/www/popclock.html Assuming that many people are either too young, too old, or unable to use computers, then perhaps only 200 Million citizens are even able to participate in this SignOn.org petition, asking for relief for excessive Student Loan burden grievances, caused (as the instant brief shows) largely by Government actions: Almost one-percent of America's entire computer-literate population has signed this petition, and it is not untenable to assume more would, had they been informed of its existence. One other thing needs to be mentioned: Alan Collinge reports at http://StudentLoanJustice.org/press-fact-sheet.html that: "There was never a rational basis for removing bankruptcy protections from student loans. Three decades ago people found to be discharging their loans shortly after graduation, while highlighted by media and pointed to as a rationalization for bankruptcy removal, turned out to be exceedingly rare. In fact, far less than 1% of all federal loans were actually discharged in bankruptcy." Is Alan right? Yes: The recent 'urban legend' among some of the "rich & powerful" banker types that Congress had 'good' rationale for removal of bankruptcy protections from student loans, namely that many students were abusing this option by going to college, racking up large debts, & then refusing to pay is easily disproved: Default rates and overall college loan debt, good proxies for levels of bankruptcy filings, used to be very low in the past (back when bankruptcy was an option, and did not require the next-to-impossible 'Undue Hardship' test). However, it was only AFTER bankruptcy (and other Standard Consumer Protections) were removed that Student Loan Debt has, for the FIRST TIME in America's history, surpassed Credit Card Debt. **Thus, the conclusion that the Student Loan crisis and Higher Education Bubble is real can not be denied. Therefore, with that introduction, the case at bar is timely and appropriate.** **xii.**

I. DUE PROCESS: Lack of Notice and Void for Vagueness issues

STATEMENT OF FACTS:

The 'Truth in Lending' protections of Federal Law passed by Congress were codified to provide protection against lack of notice and vague laws regarding loans in order to avoid offending Due Process:

"Truth in Lending Act. A federal (national) law that requires that most lenders, when they make a loan, provide standard form disclosures of the cost and payment terms of the loan."
http://www.studentloanborrowerassistance.org/blogs/wp-content/www.studentloanborrowerassistance.org/uploads/File/Report_PrivateLoans.pdf
("PAYING THE PRICE: THE HIGH COST OF PRIVATE STUDENT LOANS AND THE DANGERS FOR STUDENT BORROWERS," Student Loan Borrower Assistance, March 2008, page 64)

This law, in not restricting its application by limiting language, was not meant merely to protect some types of loans, but rather, all: The Federal Truth In Lending Act (Title 1 of Public Law 90-321; 82 Stat. 146; 15 U.S.C. § 160, et seq.) passed by Congress on May 29, 1968, was codified into Federal Law at 12 CFR 226 - TRUTH IN LENDING (REGULATION Z), which states, in pertinent part, that:

"The purpose of this regulation is to promote the informed use of consumer credit by requiring disclosures about its terms and cost." (12 CFR §226.1, (b) Purpose.)

See e.g., "Law Librarians' Society of Washington, D.C.," http://www.llsdc.org/TILA
and: "North Carolina Interest Rate Laws," USLEGAL, Inc., http://loansandlending.uslegal.com/interest/north-carolina-interest-rate-laws
and: "12 CFR 226.1 - Authority, purpose, coverage, organization, enforcement, and liability," Cornell University Law School, http://www.law.cornell.edu/cfr/text/12/226.1

Even "Private Student Loans" (non-Federal loans from private lenders) are covered by 'Truth in Lending' protections under the Colour of Law – this, even after a recent change in Federal Law in 2010:

"New Truth in Lending Requirements [linebreak] New provisions in the Truth in Lending Act, implemented in February 2010, have resulted in a number of changes in the process of applying for and receiving private student loans."
* http://www.indiana.edu/~sfa/types/loans_private.html
("LOANS: PRIVATE STUDENT LOAN," Indiana University – Bloomington, 2012)

"Most private student loans will have a disclosure statement similar to the information that is included on mortgage loans and car loans. This is because **most private loans are covered by the Truth in Lending Act** while federal loans are not. New disclosures for private student loans were mandatory as of February 14, 2010." [Emphasis added in boldface and underline for clarity, not in original.]
http://www.studentloanborrowerassistance.org/understand-loans/finding-out-what-type-of-loan-you-have/
("Not Sure What Type You Have?," Student Loan Borrower Assistance, 2012)

"Truth in Lending Act Disclosures [linebreak] Students borrowing any **non-Federal loans (e.g., institutional or private loans)** must sign and acknowledge disclosure **forms acknowledging the specific terms of each loan and stating that the student is aware of lower cost Federal loan alternatives.**" [Emphasis added in boldface and underline for clarity, not in original.]
* http://www.marquette.edu/mucentral/financialaid/ugrad_loans_index.shtml
("Loans," Marquette University, 2012)

"Private Education Loan Disclosures [linebreak] **In accordance with the Truth in Lending Act, students borrowing private education loans must receive three required disclosures** from their lender of choice at the following stages of the loan process..." [Emphasis added in boldface and underline for clarity, not in original.]
* http://www.columbia.edu/cu/sfs/docs/Grad_Fin_Aid/Private_Loans/index.html
("PRIVATE LOANS," Columbia University, undated, but current: Website accessed 2012)

Furthermore, plans are underway to amend Federal Law even further to afford Student Loan Borrowers additional 'Truth in Lending' information regarding their loans – including, but not limited to loan statements terms of the loan, terms, conditions, interest rates, and repayment options and programs of Federal student loans, etc.:

"A bill to amend the Truth in Lending Act and the Higher Education Act of 1965 to require certain creditors to obtain certifications from institutions of higher education, and for other purposes."
* http://www.govtrack.us/congress/bills/112/s2280
("S. 2280: Know Before You Owe Private Student Loan Act of 2012," Sen. Richard Durbin [D-IL])

In spite of the clear and unambiguous language delineating the purpose of the law to afford 'Truth in Lending' protections to all types of loans and all borrowers –and, obviously, to avoid offending Equal Protection – one type of loan is not covered by "Truth in Lending" protections—Federal Student Loans:

"Federal student loans are exempt from normal consumer , truth in lending protections. There is no analogous functionality within the lending industry for a guarantor or the functions they perform."
http://www.washingtonmonthly.com/college_guide/blog/a_greater_structural_problem_h.php?page=all
("A Greater Structural Problem: How the Student Loan Industry Works," Washington Monthly, by Daniel Luzer, April 7, 2011 12:15 PM)

"Her debt went from $3,500 to over $17,000 in ten years?! How could that be? [linebreak] It seems that Congress has removed nearly every consumer protection from student loans, including not only standard bankruptcy protections, statutes of limitations **and truth in lending requirements**, but protection from usury (excessive interest)." [Emphasis added in boldface and underline for clarity, not in original.]
http://www.alternet.org/story/155408/grandmothers'_social_security_garnished_for_student_loans_time_to_fix_the_broken_student_debt_system?page=entire
("Grandmothers' Social Security Garnished for Student Loans? Time to Fix the Broken Student Debt System," AlterNet, by Ellen Brown, May 13, 2012 | Copyright, Truthout.org . Reprinted with permission)

"Most private student loans will have a disclosure statement similar to the information that is included on mortgage loans and car loans. This is because **most private loans are covered by the Truth in Lending Act while federal loans are not.** New disclosures for private student loans were mandatory as of February 14, 2010." [Emphasis added in boldface and underline for clarity, not in original.]
http://www.studentloanborrowerassistance.org/understand-loans/finding-out-what-type-of-loan-you-have/
("Not Sure What Type You Have?," Student Loan Borrower Assistance, 2012)

Even the State of Texas' Office of the Comptroller acknowledges this disparity—and recommended change:
* http://www.window.state.tx.us/tpr/tprgg/wf07hed3.txt
"The Legislature should establish a "Truth-in-Lending" requirement to provide student loan borrowers with information on default, graduation and placement rates."
("Establish "Truth-in-Lending" in Student Loans," Office of the Texas Comptroller, retrieved: 2012)

"Furthermore, [federal] student loans [which can almost never be discharged via bankruptcy, also] aren't protected by state usury laws, the Truth in Lending Act, or the Fair Debt Collection Practices Act. They also have no statute of limitation on collection and cannot be refinanced. All of this means that student loans don't have to have fair market interest rates and the holders of the debt can pretty much be hounded for the rest of their lives by collection agents until the loan is repaid. [line-break] The fun doesn't stop there, because if a student defaults on their loan, their debt goes into collection which tacks on another 25 percent to the loan as part of the collection fee. About 25 percent of all student loans go into default. For those of you paying attention to the news, you might remember that during the subprime mortgage meltdown, defaults were at 25 percent, too. But unlike home loans, students cannot walk away from education loans. And for all of this madness, the government and SallieMae walk away with billions in profits. It's win-win for everyone but the students." [Emphasis added in bold and underline for clarity.]
* http://lawblog.legalmatch.com/2010/09/09/the-truth-about-escaping-student-loans/
("The Truth About Escaping Student Loans," LegalMatch Law Blog, by Andrew Dat on September 9, 2010 in Bankruptcy)

Besides lacking Truth In Lending protections, Federal Student Loans also can not usually be discharged in Bankruptcy Proceedings, as all other loans:

"...Student loans are unique to [all] other forms of debt. Unlike home or business loans, student loans cannot be discharged via bankruptcy unless the student can prove paying the loan would be an undue hardship. This is a high standard to prove because in order to qualify for it, a student would essentially have to show they'd be homeless if forced to pay their loans back."
* http://lawblog.legalmatch.com/2010/09/09/the-truth-about-escaping-student-loans/
("The Truth About Escaping Student Loans," LegalMatch Law Blog, by Andrew Dat on September 9, 2010 in Bankruptcy)

"Student loans were dischargeable in bankruptcy prior to 1976. With the introduction of the US Bankruptcy Code (11 USC 101 et seq) in 1978, the ability to discharge education loans was limited. Subsequent changes in the law have further narrowed the dischargeability of education debt."
* http://www.finaid.org/questions/bankruptcyexception.phtml
("Student Loan Bankruptcy Exception," Kantrowitz, Mark, FinAid, Copyright © 2012 by FinAid Page, LLC. All rights reserved, brief Fair Use quote)

"Student Loans & Bankruptcy" (Student Loan Borrower Assistance Project, a program of the National Consumer Law Center) "Student loans are not usually discharged in bankruptcy. It is difficult, but not impossible, to do so if you can show that payment of the debt "will impose an undue hardship on you and your dependents."
* http://www.studentloanborrowerassistance.org/bankruptcy
("Student Loans & Bankruptcy," Student Loan Borrower Assistance, © 2012 Student Loan Borrower Assistance, brief Fair Use quote)

"Student Loans In Bankruptcy" (Lawyers.com) "Student loans are not dischargeable in bankruptcy unless you can show that your loan payment imposes an "undue hardship" on you, your family, and your dependents. Non-dischargeable debts are those debts that you cannot totally eliminate when you file for bankruptcy and will have to be paid by you. It is almost impossible to show an undue hardship unless you are physically unable to work and the chances of your obtaining any type of gainful employment in the future are non-existent."
* http://bankruptcy.lawyers.com/Student-Loans-In-Bankruptcy.html
("Personal Bankruptcy and Student Loans," Lawyers.com, Copyright © 2012 LexisNexis, a division of Reed Elsevier Inc. All rights reserved, brief Fair Use quote)

"In the normal course of bankruptcy, student loans will not be discharged or forgiven. However, after the proceedings are over, an adversary proceeding can take place in bankruptcy court to decide if you meet all three of the hardship rules or tests. In this adversary proceeding, the student loan creditors will be present to challenge your hardship request. You must be able to satisfy all three of the following tests in the eyes of the court:
•If you were forced to repay the student loan, then you will not be able to maintain a **minimal standard of living.**
•You are able to present evidence that this financial hardship will continue **for a significant period of time** over the remaining term of the student loan.
•**A good faith effort** was made to repay your student loan before you filed for bankruptcy. Effectively this means you have been faithfully repaying your college loan for a minimum of five years.
If your loan is discharged, you will not have to repay the remainder of the money owed these creditors. However, you may have trouble getting a student loan of any kind in the future."
"Student Loan Bankruptcy Options," MONEY-ZONE.COM [Emphasis added in bold-faced underline for clarity; not in original]
http://www.money-zine.com/Financial-Planning/College-Loan/Student-Loan-Bankruptcy-Options
("Student Loan Bankruptcy Options," MoneyZine.com, Copyright © 2005 - 2011 Money-Zine.com, brief Fair Use quote)

The Courts agree with the standards set forth in the MoneyZine.com article, above. In the famous 'Brunner' case, The U.S. Court of Appeals for the 2nd Circuit recently held:

"As noted by the district court, there is very little appellate authority on the definition of "undue hardship" in the context of 11 U.S.C. Sec. 523(a)(8)(B). Based on legislative history and the decisions of other district and bankruptcy courts, the district court adopted a standard for "undue hardship" requiring

a three-part showing: **(1)** that the debtor cannot maintain, based on current income and expenses, **a "minimal" standard of living** for herself and her dependents if forced to repay the loans; **(2)** that additional circumstances exist indicating that this state of affairs is **likely to persist for a significant portion of the repayment period of the student loans;** and **(3) that the debtor has made good faith efforts to repay the loans.** For the reasons set forth in the district court's order, we adopt this analysis. The first part of this test has been applied frequently as the minimum necessary to establish "undue hardship." See, e.g., Bryant v. Pennsylvania Higher Educ. Assistance Agency (In re Bryant), 72 B.R. 913, 915 (Bankr.E.D.Pa.1987); North Dakota State Bd. of Higher Educ. v. Frech (In re Frech), 62 B.R. 235 (Bankr.D.Minn.1986); Marion v. Pennsylvania Higher Educ. Assistance Agency (In re Marion), 61 B.R. 815 (Bankr.W.D.Pa.1986). Requiring such a showing comports with common sense as well." [Emphasis added in bold-faced underline for clarity; not in original]

(Brunner v. N.Y. State Higher Ed. Svcs. Corp., 831 F.2d 395; 42 Ed. Law Rep. 535; Bankr. L. Rep. P 72,025, U.S. Ct. of App., 2nd Cir., Oct. 14, 1987)

One of the major ramifications of the lack of 'Truth In Lending' requirements of Federal Law is the fact that Student Loan Borrowers are not told that their loans are lacking in all Standard Consumer Protections, including, of course, the ability to obtain bankruptcy in most cases:

List of 6 Common 'Standard Consumer Protections' – Student Borrowers are not told of their absence when they take out the loan:

1) Lack of statutes of limitations,
2) Adherence to usury laws,
3) Fair Debt & Collection practices,
4) The Free Market rights to refinance if a lender comes along with a lower rate –or,most notably,
5) It is next to impossible for Student Loans to be eligible for bankruptcy –and, of course,
6) The lack of the "Truth in Lending" protection denies a student borrower the rights to know that he or she is not protected by "Truth in Lending." (Ironically, the very law itself prevents the borrower from knowing about said law.)

STANDARD OF LAW:

Due Process and other 'retained' rights are guaranteed in the 5TH, 9TH, and 14TH Amendments to the U.S. Constitution:

- "No person shall...be deprived of life, liberty, or property, without due process of law." (Am. 5)
- "The enumeration in the Constitution, of certain rights, shall not be construed to deny or disparage others retained by the people." (Am. 9)
- "No state shall...deprive any person of life, liberty, or property, without due process of law." (Am. 14, Sec. 1)

The U.S. Supreme Court has generally held these Clauses as providing four protections:

1. **Procedural Due Process (PDP), in both civil and criminal proceedings, is the right to fundamental fairness, which guarantees a party the "right to be heard" in such proceedings, ensures all parties receive "proper notification" throughout the litigation,** and requires adjudicating courts both be impartial regarding the matter before them, basing their decision a decision resting solely on the law and evidence adduced –as well as have "appropriate jurisdiction" to render judgment, and in some cases retained counsel, if desired, and a statement from the adjudicator of reasons for the decision and evidence relied on. **PDP is violated when a government harms a person without first following the exact course of the law, thus denying their legal rights under the law.** This constitutes a violation of Constitutional Due Process (of Procedure), which offends the rule of law, as the courts have generally held:

"...the decisionmaker's conclusion as to a recipient's eligibility must rest solely on the legal rules and evidence adduced at the hearing...should state the reasons for his determination and indicate the evidence he relied on...And, of course, an impartial decisionmaker is essential." Goldberg v. Kelly - 397 U.S. 254, at 271 [internal citations omitted for brevity] (1970)

"The essence of due process is the requirement that "a person in jeopardy of serious loss [be given] notice of the case against him and opportunity to meet it." Joint Anti-Fascist Comm. v. McGrath, 341 U.S. at 341 U. S. 171-172 (Frankfurter, J., concurring)." Mathews v. Eldridge, 424 U.S. 319, at 348 (1976)

"In Goldberg, the Court held that the pre-termination hearing must include the following elements: (1) "timely and adequate notice detailing the reasons for a proposed termination"; (2) "an effective opportunity [for the recipient] to defend by confronting any adverse witnesses and by presenting his own arguments and evidence orally"; (3) retained counsel, if desired; (4) an "impartial" decisionmaker; (5) a decision resting "solely on the legal rules and evidence adduced at the hearing"; (6) a statement of reasons for the decision and the evidence relied on. 397 U.S. at 397 U. S. 266-271. In this opinion, the term "evidentiary hearing" refers to a hearing generally of the type required in Goldberg." Ibid, at Footnote 4

State Courts agree:

"When facts are to be considered and determined in the administration of statutes, there must be provisions prescribed for due notice to interested parties as to time and place of hearings with appropriate opportunity to be heard in orderly procedure sufficient to afford due process and equal protection of the laws…" Declaration of Rights, §§ 1,12. McRae v. Robbins, 9 So.2d 284, 151 Fla. 109. (SUPREME COURT OF FLORIDA, EN BANC) (Fla., July 10, 1942)

"Delay in the prosecution of a suit is sufficiently excused, where occasioned solely by the official negligence of the referee, without contributory negligence of the plaintiff, especially where no steps were taken by defendant to expedite the case." Robertson v. Wilson, 51 So. 849, 59 Fla. 400, 138 Am.St.Rep. 128. (Fla. 1910)

2. **Substantive Due Process (SDP)** also applies to both civil and criminal proceedings. **SDP is a well-established case law standard for courts to enforce limits on legislative and executive powers** & authority [e.g., failures on the part of "the more politically accountable branches of government."]. **SDP prohibits both federal and State governments from depriving any person of so-called "unnamed rights" guaranteed under the 9TH AMENDMENT to the U.S. Constitution, such as the right to "life," "property," and various "liberties."**

"The enumeration in the Constitution, of certain rights, shall not be construed to deny or disparage others retained by the people." (Am. 9) **Some examples of these fundamental rights include the right to privacy, to travel, vote, to work in a particular job of one's choosing, the right to to marry, or even the right to raise one's children as a parent. The Courts have generally held that government may not restrict fundamental rights or freedoms without a compelling reason. In other words, SDP makes a distinction between, on one hand, acts by persons (either public or private in nature) that courts hold are subject to public regulations and/or legislation, and on the other hand, acts that courts place beyond the reach of governmental interference.** When courts recognise a Constitutionally-based "right" or "liberty," it then renders laws seeking to limit said "right" either totally or partly unenforceable. A denial of SDP only occurs when (taking into account the seriousness of your deprivation and including the added risk of an erroneous deprivation) your loss of the process you claim is owed you outweighs the government's interests in not affording you the process in question: "...identification of the specific dictates of due process generally requires consideration of three distinct factors: first, the private interest that will be affected by the official action; second, the risk of an erroneous deprivation of such interest through the procedures used, and the probable value, if any, of additional or substitute procedural safeguards; and, finally, the Government's interest, including the function involved and the fiscal and administrative burdens that the additional or substitute procedural requirement would entail. See, e.g., Goldberg v. Kelly, supra at 397 U. S. 263-271." Mathews v. Eldridge, 424 U.S. 319, at 335 (1976)

3. **Prohibition Against Vague Laws is a standard of American case law that states that a given statute is "Void for Vagueness" (VFV), and thus unenforceable if it is too vague for the average citizen to understand its meaning or application.** For example, a statute might be Unconstitutionally void for vagueness if a citizen of average intelligence cannot generally determine which conduct is prohibited, who are regulated, or what punishment may be imposed. The VFV doctrine is normally applied to criminal statutes, but applies to civil statutes also. The U.S. Supreme Court, in Grayned v. City of Rockford, 408 U.S. 104, at 108-109 (1972) [footnotes omitted for brevity], Justice Thurgood Marshall writing for the court, held: "It is a basic principle of due process that an enactment is void for vagueness if its prohibitions are not clearly defined. Vague laws offend several important values. First, because we assume that man is free to steer between lawful and unlawful conduct, we insist that laws give the person of ordinary intelligence a reasonable opportunity to know what is prohibited, so that he may act accordingly. Vague laws may trap the innocent by not providing fair warning. Second, if arbitrary and discriminatory enforcement is to be prevented, laws must provide explicit standards for those who apply them. A vague law impermissibly delegates basic policy matters to policemen, judges, and juries for resolution on an ad hoc and subjective basis, with the attendant dangers of arbitrary and discriminatory application. Third, but related, where a vague statute "abut[s] upon sensitive areas of basic First Amendment freedoms," it "operates to inhibit the exercise of [those] freedoms." Uncertain meanings inevitably lead citizens to "steer far wider of the unlawful zone' . . . than if the boundaries of the forbidden areas were clearly marked."'

4. **Incorporation of the Bill of Rights:** The incorporation of the Bill of Rights (or incorporation for short) is the process by which American courts have applied portions of the U.S. Bill of Rights as legally binding on the states. Prior to the 1890s, courts held the Bill of Rights only to apply to the Federal Government. Under the Incorporation Doctrine, most provisions of the Bill of Rights now also apply to state & local governments, by virtue of the Due Process clause of the Fourteenth Amendment of the Constitution, and, of course, Article VI, Clause 2 of the United States Constitution, known as the Supremacy Clause, which establishes the U.S. Constitution, Federal Statutes, and U.S. Treaties as "the supreme law of the land." The text decrees these to be the highest form of law in the U.S. legal system, and mandates that all state judges must follow federal law when a conflict arises between federal law and either the state constitution or state law of any state. In cases where the courts have refused to "incorporate" certain portions of the Bill of Rights, of course, the Supremacy Doctrine would not be binding on the states here, in which case, 'States' Rights,' are protected by the 10TH Amendment to the U.S. Constitution: "The powers not delegated to the United States by the Constitution, nor prohibited by it to the states, are reserved to the states respectively, or to the people." (Am.10)

So, in short – Due Process protects against: 1. Denial of proper procedure; 2. 'Bad' Laws; 3. Hard-to-understand Laws; and, 4. The courts have held that many (but not all) portions of the Bill of Rights applies to the states.

SUMMARY OF ARGUMENT: DUE PROCESS REQUIRES PROPER NOTICE

"The loan companies will argue that the youngsters who signed for the college loans were of legal age and should have known what they were signing...It's hard even for most loan officers to make heads or tails of the fine print in the documents they are putting before 18-year-olds."
at: http://public.shns.com/content/editorial-how-support-our-troops-honest-loans
at: http://www.newschief.com/article/20121023/NEWS/210235002
at: http://www.newsday.com/opinion/oped/mcfeatters-support-our-troops-with-honest-loans-1.4133778
at: http://www2.wsls.com/news/2012/oct/23/tennessee-editorial-roundup-ar-2269787/
at: http://www.knoxnews.com/news/2012/oct/23/tennessee-editorial-roundup/
("How to support our troops -- honest loans," by Dale McFeatters, Scripps Howard News Service, 10-19-2012)
Related article: "Colleges Offer Veterans Classes to Ease Transition,"
by Eric Tucker, The Associated Press, Oct 26, 2012: 2:46 PM, EDT
http://hosted.ap.org/dynamic/stories/U/US_COMING_HOME_VETERANS_COURSES?SITE=AP&SECTION=HOME&TEMPLATE=DEFAULT&CTIME=2012-10-26-14-46-07

The changes in Federal Law, which struck the requirement for Student Borrowers to be afforded proper notice of the terms on the Loan Instrument (in order to satisfy Fundamental Due Process regarding notice) obviously also constitute "Vague Laws," which also offend additional Constitutional Prohibitions Against Vague Laws the standard of American case law that states that a given statute is "Void for Vagueness" (VFV), and thus unenforceable if it is too vague for the average citizen to understand its meaning or application.

ARGUMENT: LACK OF PROPER NOTICE VIOLATES FUNDAMENTAL DUE PROCESS

Lack of proper notice to a borrower that his or her loan lacked ALL Standard Consumer Protections - that's akin to a buyer NOT being told his or her car had BAD BRAKES = huge liability issue. Insofar as the Federal Law sees to it that the student borrowers are not told, this of course is a violation of the borrower's Due Process, as well. Bankruptcy is a Free Market check on easy loans, and needs to be restored so the Higher Ed Bubble will be put into check –and prevent another bubble as in the 'easy loan' Housing bubble. However, even in the absence of the threat of another 'Bubble,' the borrowers' rights to protection from 'Void for Vagueness' laws is inviolate and protected by case law and Constitutional Law. The issue of the 'Bubble,' is just an additional, 'practical,' reason to do what is right.

Other examples of how this would be Unconstitutional:

1) BUSINESS LOANS: Let's say the Federal Law made company employees and CEO's personally liable for loans made to the corporation, prohibited borrowers from ever being eligible for bankruptcy protection or ability to refinance, or even 'statutes of limitations,' and then allowed automatic wage-garnishment from all their paycheck, tax refunds, and even Social Security, disability, and retirement. But, let's say that the law did not require borrowers to have "notice" of the terms of the loan instrument. QUESTION: "Would the lenders truthfully be able to say that 'ignorance of the law' is not an excuse?" ANSWER: Legally, yes. Constitutionally, no. The law would deny Fundamental Due Process and, of course, be 'Void for Vagueness,' within the legal definition. (Plus, there would be an outcry, as the rights of many very power business leaders would be abridged.)
2) BUSINESS PURCASES: Let's say a person bought a car which the seller knew had bad brakes, but did not notify the buyer, and there subsequently was a wreck with huge damages, due to defective equipment. Let's also say that State and Federal Law permitted the seller to fail to notify the buyer of this. QUESTION: "Would the seller truthfully be able to say that 'ignorance of the law' is not an excuse?" ANSWER: Legally, yes. Constitutionally, no. This would be both a huge liability issue, as well as a denial of Fundamental Due Process.
3) MEDICAL LOANS: Let's say the Federal Law made it permissible for loans for emergency medical procedures (either by a private bank or by the hospital) to be prohibited from ever being eligible for bankruptcy protection or ability to refinance, or even 'statutes of limitations,' and then allowed automatic wage-garnishment from all their paycheck, tax refunds, and even Social Security, disability, and retirement. But, let's say that the law did not require borrowers to have "notice" of the terms of the loan. QUESTION: "Would the lenders truthfully be able to say that 'ignorance of the law' is not an excuse?" ANSWER: Legally, yes. Constitutionally, no.
4) HOUSING LOANS: Let's say the Federal Law made it permissible for housing loans to be prohibited from ever being eligible for bankruptcy protection or ability to refinance, or even 'statutes of limitations,' and then allowed automatic wage-garnishment from all their paycheck, tax refunds, and even Social Security, disability, and retirement. But, let's say that the law did not require borrowers to have "notice" of the terms of the loan. QUESTION: "Would the lenders truthfully be able to say that 'ignorance of the law' is not an excuse?" ANSWER: Legally, yes. Constitutionally, no.

5) CREDIT CARD LOANS: Let's say the Federal Law made it permissible for Credit Card loans to be prohibited from ever being eligible for bankruptcy protection (except in very rare circumstances) or ability to refinance, or even 'statutes of limitations,' and then allowed automatic wage-garnishment from all their paycheck, tax refunds, and even Social Security, disability, and retirement. But, let's say that the law did not require borrowers to have "notice" of the terms of the loan. QUESTION: "Would the lenders truthfully be able to say that 'ignorance of the law' is not an excuse?" ANSWER: Legally, yes. Constitutionally, no.
6) STUDENT LOANS: Let's say the Federal Law made it permissible for student loans to be prohibited from ever being eligible for bankruptcy protection (except in very rare circumstances) or ability to refinance, or even 'statutes of limitations,' and then allowed automatic wage-garnishment from all their paycheck, tax refunds, and even Social Security, disability, and retirement. But, let's say that the law did not require borrowers to have "notice" of the terms of the loan. QUESTION: "Would the lenders truthfully be able to say that 'ignorance of the law' is not an excuse?" ANSWER: Obviously, this situation is identical to the cases in 1-5 above, but the law does not protect student borrowers' Fundamental Due Process Rights as in 1-5, above. This is an Equal Protection violation in that sense, not just a violation of Fundamental Due Process, and 'Void for Vagueness' standards, as well as a huge liability issue. [However, there is little or no action because, unlike the situation in #1, above, "Student Borrowers" do not have political clout, and this is not unlike the situation in the 1860's America, in which African Americans were told by the U.S. Supreme Court that they lacked the rights of a human: America's Highest Court held, by a overwhelming margin of a 7-2 split decision, "...that the negro might justly and lawfully be reduced to slavery for his benefit." -Chief Justice Roger B. Taney, writing for the Court. Dred Scott v. John F. Sanford, 15 L.Ed. 691; 19 How. 393; 60 US 393 at 407 (December Term, 1856). "Student Borrowers," like African Americans of that period, lacked political "clout" to convince the courts or lawmakers to afford them their due rights.]
7) QUESTION: Why are citizens falling under categories 1-5 protected, but those in #6 unprotected? ANSWER: Most probably this is due to the lack of political clout of the struggling college students, not unlike the plight of all other social or political minorities: Women, Blacks, Native American Peoples, etc., all who have struggled to avoid oppression, suppression, and denial of rights.
8) QUESTION: Would **you** like to have vague laws forced upon you? Then, don't allows it on others, many of whom have suffered material harm as a result, and who have taken out loans that, otherwise, they would not have taken out.
9) STATEMENT: If you don't think the student borrowers' rights are important, watch out: When (not 'if,' but 'when') Federal Law changes, you could be the next victim.

CONCLUSION: THE CHANGES IN FEDERAL LAW ABROGATE DUE PROCESS IN RE NOTICE AND CONSTITUTE LAWS VOID FOR VAGUENESS

The Federal 'Truth in Lending' Laws governing notice of a student loan borrower's rights and responsibilities, which are Fundamental Rights of Due Process, are unconstitutional due to a Constitutional Prohibition Against Vague Laws, as American courts have held that a given statute is a violation of Fundamental Due Process due to being "Void for Vagueness" (VFV), and thus unenforceable if it is too vague for the average citizen to understand its meaning or application, since, as in this case, Federal Statues governing student loans are Unconstitutionally void for vagueness since a citizen of average intelligence cannot generally determine which conduct is prohibited (general bankruptcy filings), who are regulated (student loan borrows), or what punishment may be imposed

(garnishment of wages, tax refunds, Federal disability, retirement, or even Social Security checks). Thus, the claim by the Scripps Howard News Service, supra, that "It's hard even for most loan officers to make heads or tails of the fine print in the documents they are putting before 18-year-olds" is a correct claim, based on fact.

II. 13TH AMENDMENT ISSUES

STATEMENT OF FACTS:

Student Loan borrowers are often in debt for life for loans far in excess of the original principles, due to no less than 3 factors:

1) **Interest;**
2) **Fees; and;**
3) **A hugely-inflated original principal, the last of which is due to exceedingly large 'tuition inflation.'**
4) **In addition, their wages, tax returns, even Social Security and Disability checks can be automatically garnished without need for a court order –an unprecedented power to compel payment, something not seen even in Credit Card cases, the latter of which require a litigation, and a subsequent court order, to compel payment.**

STANDARD OF LAW:

- "Neither slavery nor involuntary servitude, except as a punishment for crime whereof the party shall have been duly convicted, shall exist within the United States, or any place subject to their jurisdiction." (Am. 13, Sec.1)
- "Congress shall have power to enforce this article by appropriate legislation." (Am. 13, Sec.2)

ARGUMENTS:

Wage-garnishment for student loans, which can last for a life-time, and can not be discharged in bankruptcy proceedings, as in every other type of loan instrument, legally constitutes a form of involuntary servitude– and many times this is due to deprivation of many Fundamental Constitutional rights, not just poor judgment in borrowing, which makes it an even greater deprivation of various 5TH and 14TH AMENDMENT Due Process and Equal Protection rights, not to other mention 9TH and 13TH AMENDMENT rights.

CONCLUSION:

Student Loan borrowers would already be deprived of their 13TH AMENDMENT rights if they had proper notice of the requirements of law, since no other type of loan –even undisputed and legitimate loans of all other types –are denied Standard Consumer Protections –including, of course, the right to obtain bankruptcy. Student Loans can very rarely (almost never) be discharged in bankruptcy (the standard is much higher than that for loans under similar terms, such as Credit Card debt, another form of unsecured loan), and they lack Truth in Lending protections (at least Federal Student Loans do). This lack of protection via " Truth in Lending" laws, of course, constitutes a Prohibition Against Vague Laws. For those reasons, the 13TH AMENDMENT prohibition against involuntary servitude is aggravated and violated to an even greater degree than were it to merely apply to an otherwise legitimately administered loan, one which was not a form of 'Predatory Lending.'

III. CONTRACT LAW: BREACH OF CONTRACT / TORTIOUS INTERFERENCE

STATEMENT OF FACTS:

TERMS OF LOAN CONTRACT WERE CHANGED AFTER THE FACT

Some "Student Loans" were made by lenders during a period in which Federal Bankruptcy Law permitted the student loan borrowers to discharge their loans in bankruptcy, just as every other type of loan in America (and even in every civilised country in which human rights are not suppressed by an oppressive regime) is permitted. In those cases where the loans were made by the Federal Government, altering the terms of the loan constituted a 'Breach of Contract' on the part of one party (the Government). In such cases where loans were made by private entities, this change in Federal Law, altering the Terms of the Contract, would, legally, be distinguished from that particular tort, supra, and, instead, legally constitute a 'Tortious Interference' of an existing contract.

The US Bankruptcy Code at 11 USC 523(a)(8) provides an exception [commonly known as the "Undue Hardship" exception, and defined by The Courts, in Brunner v. N.Y. State Higher Ed. Svcs. Corp., supra] to bankruptcy discharge for education loans. Below, are 'Fair Use' excerpts, from the website of nationally-recognised expert, Mark Kantrowitz, showing selected items in the history of the legislative language in this section of the US Bankruptcy Code. These facts are well known to This Court, however, as proof for any doubters, and to verify this Statement of Fact in this brief, herein, see selected 'Fair Use' excerpts infra:

- "1976: A regulation precluded the discharge of education loans made by the government or a non-profit college or university during the first 5 years of repayment. Previously education loans were dischargeable in bankruptcy without any exceptions."
- "1978: Initial enactment of the exception to discharge for education loans made by the government or colleges and universities. Loans were dischargeable if they had been in repayment for 5 years or represented undue hardship."
- "1984: The Bankruptcy Amendments and Federal Judgeship Act of 1984 (P.L. 98-353, 7/10/1984) changed the language excepting loans from a "nonprofit institution of higher education" by striking the words "of higher education". This opened the door for private student loans to be excepted from discharge."
- "1991: The Higher Education Technical Amendments of 1991 (P.L. 102-26, 4/9/1991) eliminated the statute of limitations and the defense of laches on federal education loans. Previously there was a six year limit."
- "2005: An amendment enacted by the Bankruptcy Abuse Prevention and Consumer Protection Act of 2005 (P.L. 109-8, 10/17/2005) added an exception to discharge for qualified education loans, which includes most private student loans. Before this amendment only private student loans made under a "program funded in whole or in part by a governmental unit or nonprofit institution" were excepted from discharge."
- "2006: The wage garnishment amount was increased from 10% to 15% by the Deficit Reduction Act of 2005 (P.L. 109-171, 2/8/2006)."
- Source: Selected 'Fair Use' excerpts from "Student Loan Bankruptcy Exception," by Mark Kantrowitz, FinAid.com: http://www.finaid.org/questions/bankruptcyexception.phtml

STATEMENT OF LAW:

A contract typically must have certain "Sine Quo Non" essential elements in order to be enforceable:

- Mutual consent and Understanding: "The parties to the contract have a mutual understanding of what the contract covers. For example, in a contract for the sale of a "mustang", the buyer thinks he will obtain a car and the seller believes he is contracting to sell a horse, there is no meeting of the minds and the contract will likely be held unenforceable." ("Contract Law - An Introduction," By Aaron Larson, ExpertLaw.com, Law Offices of Aaron Larson, October, 2003; Last Reviewed Dec., 2010. http://www.expertlaw.com/library/business/contract_law.html)
- Offer and Acceptance: Both the offer by the seller and the acceptance by the buyer are necessary here.
- Mutual Consideration – A mutual exchange of something of value: For example, a seller of a vehicle might receive money, whilst the buyer receives the vehicle. Both items must have value to fulfil this requirement.
- Performance AKA "Delivery": In order for one party to have a legitimate cause to sue for "breach of contract," it must show the court that it performed all of it's duties & obligations under the contract, and that the other party did not.
- Good Faith: "It is implicit within all contracts that the parties are acting in good faith. For example, if the seller of a "mustang" knows that the buyer thinks he is purchasing a car, but secretly intends to sell the buyer a horse, the seller is not acting in good faith and the contract will not be enforceable." ("Contract Law - An Introduction," By Aaron Larson, ExpertLaw.com, Law Offices of Aaron Larson, October, 2003; Last Reviewed Dec., 2010. http://www.expertlaw.com/library/business/contract_law.html)

LAW: ** BREACH OF CONTRACT **

The United States Court of Appeals, Eighth Circuit held that:

"the district court did not err in awarding the full price of each contract as damages for appellants' breach of contract in this case. We also hold that the district court did not erroneously award double damages to appellees. We affirm."
(Paramount Pictures Corp. v. Metro Program Network, Inc., et al., 962 F.2d 775, U.S. Cir.Ct. App., 8th Cir., April 16, 1992)

LAW: ** TORTIOUS INTERFERENCE **

The U.S. Constitution prohibits the Government from "Tortious Interference," that is, interfering with the a contractual agreement, in this case, a Loan Contract. In other words, unless the parties are terms of the contract violate the law, all private contracts are "self-enforcing agreement":

"No State shall enter into any Treaty, Alliance, or Confederation; grant Letters of Marque and Reprisal; coin Money; emit Bills of Credit; make any Thing but gold and silver Coin a Tender in Payment of Debts; pass any Bill of Attainder, ex post facto Law, **or Law impairing the Obligation of Contracts,** or grant any Title of Nobility."
(U.S. Const., Art. I, Sec. 10, Clause 1; Emphasis added in bold-underline; not in original)

The 'Contract Clause' prohibits states from enacting any law that retroactively impairs contract rights.

The Contract Clause applies only to state legislation (not court decisions), but, as the Federal Government's enactment of laws applies to all States, it also obviously applies this prohibition of interference to Federal Laws as well. The Framers of the Constitution added this clause in response to the fear that states would continue a practice that had been widespread under the Articles of Confederation—that of granting "private relief." Legislatures would pass bills relieving particular persons (predictably, influential persons) of their obligation to pay their debts. One of the debts that lenders owed borrowers is, of course, is to avoid engaging in Loan Contracts which are in violation of the "Good Faith" elements of well-settled Contract Law.

FEDERAL COURTS AGREE WITH THIS INTERPRETATION OF THE U.S. CONSTITUTION

Tortious interference, also known as intentional interference with contractual relations, in the common law of torts, occurs when a person intentionally damages the plaintiff's contractual or other business relationships. The United States Court of Appeals For the First Circuit, citing Comey v. Hill, 438 N.E.2d 811, 816 (Mass. 1982), held that:

"The elements of the tort are uncontroversial: to prevail on a tortious interference claim, a plaintiff must demonstrate (1) that she had a business relationship, (2) that the defendant knew of this relationship, (3) that the defendant intentionally and maliciously interfered with the relationship, and (4) that the defendant's actions harmed her. Comey v. Hill, 438 N.E.2d 811, 816 (Mass. 1982)." (Zimmerman v. Direct Federal Credit Union, et al., 262 F.3d 70, U.S. Ct.App., 1st Cir., Sept. 4, 2001)

Although the specific elements required to prove a claim of tortuous interference vary from one jurisdiction to another, they typically include the following:
1) The existence of a contractual relationship or beneficial business relations between two parties.
2) Knowledge of that relationship by a third party.
3) Intent of the third party to induce a party to a relationship to breach the relationship.
4) Lack of any privilege on the part of the third party to induce such a breach.
5) Damage to the party against whom the breach occur

Source: "Tortious Interference," U.S. Alliance of Collision Professionals:
http://www.usacp.org/Law/Legal(mix)/FEDERAL/Tortious%20Interference.pdf

ARGUMENTS – When the Federal Government changed the terms of the Loan Contract after the fact —changing the rules "mid-flight" (to remove, after-the-fact, all the Standard Consumer Protections), this breached the explicitly laid-out Terms of the Loan Contract of Student Borrowers.

The Courts have also found that you can't change the rules "mid-flight":

"As to late-fee income, Capital One seeks to retroactively change accounting methods years after it selected and implemented an alternative method. The purported change would reduce Capital One's taxable income for 1998 and 1999 by approximately $400,000,000. To allow such changes without the prior consent of the Commissioner would roil the administration of the tax laws, sending revenue projection and collection into a churning and unpredictable state. Belated attempts to change accounting methods "would require recomputation and readjustment of tax liability for subsequent years and impose

burdensome uncertainties upon the administration of the revenue laws." *Pac. Nat'l Co. v. Welch,* 304 U.S. 191, 194, 58 S.Ct. 857, 82 L.Ed. 1282 (1938). For that reason, the Supreme Court has held that once a taxpayer has reported income according to a particular method it must live with that choice—the taxpayer has "made an election that is binding upon it and the commissioner." *Id.* at 195, 58 S.Ct. 857."
* http://www.leagle.com/xmlResult.aspx?xmldoc=In%20FCO%2020111021078.xml
cf: http://www.ca4.uscourts.gov/Opinions/Published/101788.P.pdf
(Capital One Financial Corp. v. C.I.R., 659 F.3d 316, at: 321-322, U.S. Ct. of App., 4th Cir., October 21, 2011)

In cases when the Federal Government was the lender, this constituted a "Breach of Contract." In such cases where the loans were made by private entities, this interference by the Federal Government legally constitutes "Tortious Interference." **Let's apply the legal test to verify this argument:**

1) Student Loan borrowers and pre-1976 lenders had a contractual business relationship between the parties.
2) There was knowledge of that relationship by a third party, the U.S. Government
3) The "Intent of the third party to induce a party to a relationship to breach the relationship" can be demonstrated by the change in the Federal Laws governing Student Loans that, **retroactively** change the terms of the Loan Contract.
4) There was a lack of any privilege on the part of any third party to induce such a breach: Neither lender nor borrower could, independently, change the terms of the Loan Contracts, which, of course, included full Bankruptcy Protections, and all other "Standard Consumer Protections."
5) There, obviously, was damage to the parties against whom the breach occurred: Student Borrowers were thrown for a loop, by a denial of Due Process and proper notice here, and materially harmed, as they were sold a bad bill of goods, sold the Loan Contract on false pretenses, that is, through Predatory Lending, as the terms were changed "mid-flight."

CONCLUSION – The US Government is guilty of Breach of Contract (in cases where they were the lender) and of Tortious Interference (in cases where they were not).

IV. CONTRACT LAW: IMPLIED WARRANTY / GOOD FAITH

STATEMENT OF FACTS: It is common knowledge that Student Borrowers take out loans with an unwritten and unspoken guarantee to the buyer that goods purchased conform to ordinary standards of care and that they are of the same average grade, quality, and value as similar goods (e.g., other loans, taken out under similar terms, such as Credit Card Loans, also an unsecured loan) marketed under similar circumstances.

STANDARD OF LAW: IMPLIED WARRANTY OF MERCHANTABILITY

In common law, an "implied warranty" is a contract law term for certain assurances that are presumed to be made in the sale of products due to the circumstances of the sale. These assurances are characterized as "warranties" irrespective of whether the seller has expressly promised them orally or in writing. For example, an implied warranty of merchantability is an unwritten and unspoken guarantee to the buyer that goods purchased conform to ordinary standards of care and that they are of the same average grade,

quality, and value as similar goods sold under similar circumstances. For example, when you go to purchase supermarket produce, you assume the food is fresh and edible. This has been codified in the "Uniform Commercial Code":

"Unless excluded or modified (Section 2-316), a warranty that the goods shall be merchantable is implied in a contract for their sale if the seller is a merchant with respect to goods of that kind." (U.C.C., Art. 2., Sec. 3, § 2-314(1))

Federal Case Law also upholds this standard. The United States Court of Appeals, Fifth Circuit held:
"Since the Act, in turn, allows a private action for breach of implied warranty, the Magnuson-Moss Act does permit, as a matter of federal law, the recovery of damages for personal injury." (Boelens, et al. v. Redman Homes, Inc., et al., 748 F.2d 1058, 53 USLW 2339, 1985-1 Trade Cases 66,376, U.S. Ct. of App., 5th Cir., Dec. 20, 1984)

In a seminal case, The U.S. Supreme Court held:

"That he did not exact an express warranty against latent defects, not discoverable by inspection, constitutes, under the circumstances, no reason why a warranty may not be implied against such defects as were caused by the mode in which this false work was constructed." (Kellogg Bridge Co. v. Hamilton, 10 U.S. 108, 3 S.Ct. 537, 28 L.Ed. 86, January 14, 1884)

Subsequent FEDERAL Courts, including The United States Court of Appeals, Eleventh Circuit, citing Cheminova Am. Corp. v. Corker, 779 So.2d 1175, 1180 (Ala.2000), agree with this guarantee of an implied warranty:

"("Unless specifically disclaimed, implied warranties are created upon the sale of goods."); Cheminova Am. Corp. v. Corker, 779 So.2d 1175, 1180 (Ala.2000)." (Spain v. Brown & Williamson Tobacco Corporation, et al., 363 F.3d 1183, U.S. Ct. of App., 11th Cir., March 29, 2004)

In fact, even a lack of privity (a close, mutual, or successive relationship to the same right of property or the power to enforce a promise or warranty) is of no concern to preclude breach of "implied warranty"claims – The United States Court of Appeals, Sixth Circuit, citing Heritage Res., 774 N.W.2d at 343 held:

"("The fact that plaintiffs lacked any privity of contract with [defendants] is of no consequence since the claims involved a breach of implied warranties." (citing Heritage Res., 774 N.W.2d at 343)). Therefore, the district court did not err by reinstating Farley's implied-warranty claim."

(Charles J. Farley v. Country Coach, Inc., No. 08–159, U.S. Ct. of App., 6th Cir., Filed: May 5, 2008)

See also: http://www.investopedia.com/terms/i/implied-warranty.asp#ixzz2AIjlR2gP

The "implied warranty" is accepted as valid due to "Good Faith" implicit within the contact. (That is, without Good Faith, no party can safely assume that an "an implied warranty of merchantability" will be honoured.
Cf: http://legal-dictionary.thefreedictionary.com/Implied+Warranty

ARGUMENTS: 'UNCLEAN HANDS' AND 'GOOD FAITH' DOCTRINES

The Doctrine of Unclean Hands, sometimes summarised as: “those seeking equity must do equity,” and also sometimes called the “Dirty Hands” doctrine, is an equitable defense in which one party (either defendant or plaintiff) argues that the opposing party is not entitled to obtain an equitable remedy on account of the fact that said party is acting unethically or has acted in bad faith with respect to the subject of the complaint—that is, with "unclean hands". This doctrine, therefore, is a sister vein in Common Law to the “Good Faith” doctrine.

See e.g.,:

* http://www.businessdictionary.com/definition/unclean-hands-doctrine.html
and:
* http://www.legal-explanations.com/definitions/unclean-hands.htm

Since all other loans in the entire world (America, and any and all other nations) permit the discharge of loans via Bankruptcy Proceedings, then there was an implied warranty of merchantability on the part of the tendering of the Student Loans. (Student Loans can be discharged in bankruptcy, but the standards are so much more difficult as to practically be nonexistent.) Since it is implicit within all contracts that the parties are acting in good faith, where both parties are not being intentionally deceived, these lenders are not acting in good faith and the loan contract can not legally be enforced.

CONCLUSION – The lenders, both private and the Federal Government in its role as lender (and possibly also the U.S. Government in its role as Guarantor of loans), did not act in 'Good Faith' and are guilty of a violation of the terms of Implied Warranty of Merchantability of said loans.

V. CONTRACT LAW: UNCONSCIONABILITY

STATEMENT OF FACTS: The relative 'Bargaining Power' of the lenders is extremely and grossly unequal, due to several factors, including (but not limited to) the following:

1) The Federal Government (but not private lenders) have unequaled and unprecedented powers to compel repayment of the loan.
2) The lenders make Student Loans, whose principle (even before Interest and late fees) is grossly inflated due to “Tuition Inflation,” which is a result of the fact that Congress continues to raise Loan Limits, thus preventing any incentive of Colleges/Universities to keep tuition down. However, in addition to this, American Higher Education also has an illegal monopoly on the market, which further drives Tuition Inflation.
3) Student Loans made by both Federal and Private lenders have no Statute of Limitations.
4) The U.S. Department Of Education makes $1.22 for every dollar of defaulted loans, thereby giving them an incentive to see loans go into default, and incentive to urge Congress to continue raising Loan Limits on Student Loans, which, of course, drastically increase the default rate. (Most other types of bankrupted or defaulted loans, by contrast, result in a material loss for the lender in question, thereby providing a Free Market incentive to help the borrower avoid default, offering incentive to avoid making huge, unrepayable loans.)
5) Students are unable to obtain bankruptcy except in the nearly impossible “Undue Hardship” standard

FACTS – 1) POWERS TO COMPEL REPAYMENT:

"This page discusses debt settlement for defaulted federal student loans. **The US Department of Education has very strong powers to compel payment of defaulted student loans, including garnishment of wages and Social Security benefits, income tax refund offset and blocking renewal of professional licenses.** Federal student loans cannot generally be discharged in bankruptcy unless the borrower can demonstrate undue hardship in an adversary proceeding. The availability of income-based repayment, which reduces the loan payments to an affordable level, makes bankruptcy discharge of federal student loans very rare. But the US Department of Education does occasionally settle debt for less than what is owed." [Emphasis in bold-underlined for clarity; Not in original]
*** "Student Loan Debt Settlements," FinAid.org, by Mark Kantrowitz
http://www.finaid.org/loans/settlements.phtml

FACTS – 2) ILLEGAL MONOPOLY

Students in America generally have no other place to go for Higher Education—which has a corner and a monopoly on the market. This is an undisputed fact. To prove this "Statement of Fact," let's look at the Dictionary Definition of a "Monopoly," which is an American English term that was derived from the Greek 'monos' (Lit. 'μόνος,' alone or single) and 'polein' (Lit. 'πωλεῖν,' to sell). The definitions below verify the claim that a 'monopoly' exists when a specific merchant –or group of merchants –is the only supplier of a particular commodity (such as Higher Education). Monopolies, due to their inherent lack of viable substitute goods, are thus characterized by a lack of economic competition to produce the good or service at a reasonable cost to consumers. Here is proof of this "Statement of Fact":

"mo·nop·o·ly [muh-**nop**-uh-lee]
***noun, plural* mo·nop·o·lies.**
1. exclusive control of a commodity or service in a particular market, or a control that makes possible the manipulation of prices. Compare duopoly, oligopoly."
Source: http://dictionary.reference.com/browse/monopoly

"mo·nop·o·ly (m-np-l)
n. pl. **mo·nop·o·lies**
1. Exclusive control by one group of the means of producing or selling a commodity or service: *"Monopoly frequently ... arises from government support or from collusive agreements among individuals" (Milton Friedman)."*
Source: http://www.thefreedictionary.com/monopoly

"mo·nop·o·ly *noun* \mə-□nä-p(ə-)lē\
plural **mo·nop·o·lies**

Definition of MONOPOLY

1 : exclusive ownership through legal privilege, command of supply, or concerted action"
Source: http://www.merriam-webster.com/dictionary/monopoly

Statement of Fact: American Colleges and Universities hold a "monopoly" on Higher Education for American citizens, by the commonly accepted dictionary definition.

FACTS – 3) STATUTES OF LIMITATIONS

"1991: **The Higher Education Technical Amendments of 1991 (P.L. 102-26, 4/9/1991) eliminated the statute of limitations and the defense of laches on federal education loans.** Previously there was a six year limit." [Emphasis added in boldface and underline for clarity, not in original.]
* http://www.finaid.org/questions/bankruptcyexception.phtml
("Student Loan Bankruptcy Exception," by Mark Kantrowitz, FinAid.com)

"Her debt went from $3,500 to over $17,000 in ten years?! How could that be? [linebreak] It seems that Congress has removed nearly every consumer protection from student loans, including not only standard bankruptcy protections, **statutes of limitations** and truth in lending requirements, but protection from usury (excessive interest)." [Emphasis added in boldface and underline for clarity, not in original.]
http://www.alternet.org/story/155408/grandmothers'_social_security_garnished_for_student_loans_time_to_fix_the_broken_student_debt_system?page=entire
("Grandmothers' Social Security Garnished for Student Loans? Time to Fix the Broken Student Debt System," AlterNet, by Ellen Brown, May 13, 2012 | Copyright, Truthout.org . Reprinted with permission)

"Furthermore, [federal] student loans [which can almost never be discharged via bankruptcy, also] aren't protected by state usury laws, the Truth in Lending Act, or the Fair Debt Collection Practices Act. **They also have no statute of limitation on collection** and cannot be refinanced..." [Emphasis added in bold and underline for clarity.]
* http://lawblog.legalmatch.com/2010/09/09/the-truth-about-escaping-student-loans/
("The Truth About Escaping Student Loans," LegalMatch Law Blog, by Andrew Dat on September 9, 2010 in Bankruptcy)

FACTS – 4) The "$1.22 recovered for each dollar of defaulted loan" proposition:

"It is most disturbing, however, that recent analysis of the President's Budget data reveals that even the US Department of Education, on average, recovers $1.22 for every dollar paid out in default claims. Assuming generous collection costs, and even allowing for a nominal time value of money of a few percent (the governments cost of money is very low), it still appears that the federal government, even, is making a pretty penny from defaults."
* http://www.forbes.com/sites/peterjreilly/2012/03/19/why-college-prices-keep-rising/
("Why College Prices Keep Rising," by Alan Collinge, via: Peter J. Reilly, contributor, 3/19/2012 @ 6:43AM, Forbes.com)

"About 85 percent of student loans that are defaulted will be collected in the end. Not only that, but the government expects to collect up to $1.22 on every dollar of student loans that are outstanding and in default. About 10 percent is made on defaulted debt for credit card businesses."
* http://www.egyptindependent.com/node/466576
("Unemployment and growing debt leads college value to be questioned," by Janno W, Fri, 10 June 2011 – 09:57, EgyptIndependent.com)

"Current estimates are that 85 percent of all defaulted students loans will end up being collected. Not only that, but the government expects to collect up to $1.22 on every dollar of student loans that are outstanding and in default. Credit card companies, by comparison, usually make about 10 percent of all defaulted debts back." ("Value of college questioned with high loans and unemployment," by Peter Stone, MONDAY, JUNE 6TH, 2011, *PersonalMoneyStore.com*)
* http://personalmoneystore.com/moneyblog/2011/06/06/value-of-college/

"The colleges steer students towards loans. The federal education department actually makes $1.22 for every dollar paid out in default claims." ("Drilling Down: The Student Loan Crisis," by Michael Miller, Friday, 11 May 2012 00:00, *Anton Community Newspapers*)
* http://www.antonnews.com/columns/miller/22756-drilling-down-the-student-loan-crisis.html

"Based on the figures provided by the White House budget for fiscal 2011, the federal government expects gross recovery of between $1.10 and $1.22 for every dollar of defaulted student loans. It also indicates that about $49.9 billion of Federal Family Education Loan and Federal Direct Lending Program loans are also in default." ("Government Student Loan 2011," *StudentLoanInfo.org*, 2007)
* http://www.studentloaninfo.org/studentloantypes/government-student-loans.html

"Defaulting on student loans is not such a bad thing for the government. According to White House budget figures for fiscal 2011 ending in September, the federal government expects gross recovery between $1.10 and $1.22 for every dollar of defaulted student loans." ("Defaulted student loans are a cash cow for the federal government," by Lisa Phillips, March 21, 2011, *RebuildCreditScores.com*)
* http://rebuildcreditscores.com/defaulted-student-loans-are-a-cash-cow-for-the-federal-government/

"In 2011, the Department of Education recovered $1.22 to the dollar on defaulted loans. While the department says the net recovery (or, minus the collection costs) is just $0.85 -- that's still four times the recovery rate of credit card debt. Bloomberg TV's Carol Massar has the details on the Great Student Debt Collector:" ("Government as the Great Student Debt Collector," *Bloomberg Television*, August 7 at 5:00pm) * http://www.facebook.com/BloombergTelevision/posts/328927460534321

"The margins on **college-loan-sharking** are so grotesquely fat that the government even rakes in a juicy cut: In 2010 the Department of Education reported collecting $1.22 for every dollar in defaulted student loans it had guaranteed - and that's after the sharks and their shareholders and the obligatory outright fraud had taken their first round of cuts." ("Column: The student loan crisis that can't be gotten rid of," by Maureen Tkacik, *Reuters.com*, Wed., Aug 15, 2012 5:31pm EDT)
* http://www.reuters.com/article/2012/08/15/us-student-loan-crisis-idUSBRE87E13L20120815
and: http://mobile.reuters.com/article/idUSBRE87E13L20120815?irpc=932

"If there's any industry that has mastered the art of the loophole, it's high-cost lending. When faced with unwanted regulation, lenders are well-practiced at finding an opening that will allow them to charge triple-digit interest to their customers." (**"Federal agency seeks to restrict payday loans:** Agency headed by former Ohio Attorney General Richard Cordray tackles controversial industry," By Paul Kiel, ProPublica, Sunday 29 March 2015, *The Sandusky Register*)
* http://www.sanduskyregister.com/news/government/7799391

*(Emphasis added by **bold-face** and underline in prior two citations, comparing college-loan-sharking to payday loans, as they are both abuses in interests & fees. ~Editor)*

"What is almost unbelievable: Even the Department of Education (According to the President's Budget), gets back $1.22 for every dollar they pay out in default claims for Federal Family Education Loan Program (FFELP) loans. Even subtracting generous collection and other costs from this profit still leave them clearly in the black."
* http://www.newyorkartworld.com/commentary/WhatCongressCanDo-2012.html
("What Congress Can Do To Solve the Student Loan Crisis," by Alan Collinge, "New York Art World," April 28, 2012)

"The recovery figures are quite generous when compared with other corners of consumer debt. Banks, for example, often retrieve less than 10 cents on the dollar from overdue credit cards. [line-break] According to White House budget figures for fiscal 2011 ending in September, the federal government expects gross recovery of between $1.10 and $1.22 for every dollar of defaulted student loans. An estimated $49.9 billion of Federal Family Education Loan and Federal Direct Lending Program loans are in default, out of a total $713.4 billion outstanding, as of Sept. 30. **Those amounts include only principal balances, not interest.**" [Emphasis in bold-face & underline added for clarity, not in original]
* http://www.ibhe.org/newsdigest/NewsWeekly/010611.pdf
(ILLINOIS BOARD OF HIGHER EDUCATION, citing the WSJ article, infra:)
* http://online.wsj.com/article/SB10001424052748704723104576061953842079760.html
("Government Sees High Returns On Defaulted Student Loans," by Melissa Korn, Posted in: "COLLEGE PLANNING," THE WALL STREET JOURNAL, January 4, 2011)

FACTS – 5) Bankruptcy is nearly impossible for College loans:

"There is a simpler way to cut the Gordian knot of rising debt and college costs, one that would help desperate graduates in the short term and lower the cost of college in the long term. The answer is bankruptcy relief for both federal and private student loans.
Since 1998, federally subsidized student loans have been non-dischargeable in bankruptcy, except in rare cases involving permanent disability or death. Since 2005, **even private, unsubsidized student loans** -- the fastest-growing, highest-cost type of student loan, tantamount to putting college on your credit card -- **have been immune to bankruptcy claims,** as well. **Without bankruptcy, lenders have little interest in negotiating."**
* http://www.cnn.com/2012/04/26/opinion/kamenetz-obama-higher-education/index.html
("Obama should push bankruptcy relief for student loans," by Anya Kamenetz, Special to CNN, updated 7:42 PM EDT, Thu April 26, 2012)

Other areas of the instant brief, inter alia, quoting nationally recognised Higher Ed expert, Mark Kantrowitz in the "DUE PROCESS: Lack of Notice and Void for Vagueness issues" section, as well as the "Contract Law: Breach of Contract / Tortious Interference" section, address the next-to-impossible "Undue Hardship" standard for discharge of College Loans.

These citations to The Law regarding Student Loan Bankruptcy, which verify the facts above, are hereby incorporated in this section and in this instant Brief as if fully set forth verbatim herein.

STANDARD OF LAW:

Very similar to “Good Faith” is the issue 'Unconscionability':
In many cases the meaningfulness of the choice is negated by a gross inequality of bargaining power, legally defined as “Unconscionability,” and involving the evaluation of four factors…
1. The relative harshness of the term in question, including the importance of the legal right that is affected
2. The manner of presentation of the term in the agreement
3. The relative bargaining power of the party against whom the term is asserted
4. The commercial justification for the term

Williams v. Walker-Thomas Furniture Co., 350 F.2d 445 (U.S. D.C.Cir., COA, 1965) held that if unconscionability is present at the time a contract is formed, the court can choose not to enforce the contract.

Inquiry into the relative bargaining power of the two parties is not an inquiry wholly divorced from the general question of unconscionability, since a one-sided bargain is itself evidence of the inequality of the bargaining parties. This fact was vaguely recognized in the common law doctrine of intrinsic fraud, that is, fraud which can be presumed from the grossly unfair nature of the terms of the contract. See the oft-quoted statement of Lord Hardwicke in Earl of Chesterfield v. Janssen, 28 Eng. Rep. 82, at 100, and: 2 Ves. 155 (1751):

“(Fraud) may be apparent from the intrinsic nature and subject of the bargain itself; such as no man in his senses and not under delusion would make.”

And cf. Hume v. United States, supra Note 3, 132 U.S. 406, at 413, 10 S.Ct. 134, at 137, 33 L.Ed. 393, December 13, 1889, where the Court characterized the English cases as 'cases in which one party took advantage of the other's ignorance of arithmetic to impose upon him, and the fraud was apparent from the face of the contracts.'

ARGUMENTS: UNCONSCIONABILITY

In this case, the meaningfulness of the choice to enter into the Student Loan Contract is negated by a gross inequality of bargaining power, and thus 'Unconscionable':

1. The relative harshness of the term in question, including the importance of the legal right that is affected: Student Loan Debt is documented to be so high that it can not be repaid, nor discharged in Standard Bankruptcy Proceedings, except in very unusual circumstances.
2. The manner of presentation of the term in the agreement: Students are rushed through a maze of documents, and told to sign them, or else they will not be able to continue with their education.
3. The relative bargaining power of the party against whom the term is asserted: The repayment of the debt is automatic wage-garnishment, no court order is needed, and with no statute of limitations.
4. The commercial justification for the term: The U.S. Department of education, lenders, and loan companies involved make so much off students due to Interest, Excessive Fees, and a vastly-inflated principle loan in the first place, as to not constitute any commercial justification. This is especially true in light of the fact that these three (3) entities make far more off Student Borrowers than do Credit Card companies, whose loan terms are on similar terms, including the unsecured nature of the loans in question.

Since it is a common understanding when one takes out a loan, that one must, if able, repay it, this makes sense, on three levels:

1) Legally (what is Constitutionally and Legally required by Statutory and Case Law on the State & Federal levels)
2) Morally (that which is "morally" right in the eyes of current social mores, standards, and public policy)
3) Practically (what is practically possible, and helpful to the public as a whole)

The "legal" points are addressed in this Position Paper, herein.

The "moral" points are left up to each reader to take up with his or her own religion, but shall be treated in a separate part of this brief to The Courts.

The "practical" problems with prohibiting bankruptcy are numerous, but one huge one is the following: When there are no realistic means for Student Loan borrowers to discharge their loans in bankruptcy, the student in on the hook for life, and the U.S. Department of Education recovers $1.22 for every dollar paid out in default claims, and thus both the Dept of Ed as well as lenders make far more money when students defaulted on their loans than if the student borrower were afforded Standard Consumer Protections which all other loans have. This "profit" motive deprives those powerful political entities from persuading the U.S. Congress to keep "Student Loan Limits" at a reasonable level, and, obviously, the unrealistically high loan limits induce the colleges & universities to raise the price of tuition to match the increased borrowing ability, thereby utilising their position of a monopoly on Higher Ed to prevent students from obtaining an affordable education, and thereby vastly increasing defaults, since loan amounts are unrealistically high, and next-to-impossible to pay back.

To show the truth and correctness to the claim, above, consider what would happen if Student Loans were dischargeable in bankruptcy: The U.S. Dept of Ed (as well as lenders) would realise a material loss when a student borrower defaults, and both parties supra would use their political clout to force Congress to lower "Loan Limits" to reasonable levels, and tuition would drop like a rock to reflect the Free Market pressures of students who were unable to take out "million dollar" loans. (Hyperbole exaggeration to illustrate.) Then, of course, reasonably-sized loans would be easier to manage, and the default rate would also drop like a rock.

As a "practical matter," lower tuition would translate into far less Student Loan defaults, and save the taxpayer a boatload of monies (since taxpayer funds make and/or guarantee almost all current Student Loans, with "private" student loans comprising only a minority of the market.) This would also lighten the impossibly heavy "debt burden" on the backs of student loan borrowers. Banks and other lenders would be very unhappy they could not pillage students any longer, and colleges would have to live within their means –like they did in the past, when college was affordable –but they would survive – albeit with slightly smaller 6-figure and 7-figure salaries –and slightly less unnecessary "bells and whistles," like fancy dorms, extravagant programs, and endless research projects. However, colleges would survive –as they did in the past.

CONCLUSION:

The Student Borrower, probably, under law, has some legal (and moral) duty to repay that portion of the loan which would normally be expected, had there not been any fraud or Predatory Lending present at the time these Student Loan Contracts were formed.

However: Fraud is apparent from the intrinsic nature and subject of the bargain itself, since no person in their right mind would chose to be enslaved for a life-time –and compelled under force to repay, in some cases, 5 or 10 times their original Student Loan (already at an inflated principle due to "Tuition Inflation"), with no Statute of Limitations. Since unconscionability was present at the time these Student Loan Contracts were formed, the meaningfulness of the choice is negated by a gross inequality of bargaining power. The "meaningfulness of the choice" is further negated by the fact that there is an illegal monopoly, discussed supra –and infra:

When both the government and private lenders have an unlimited Statute of Limitations on these huge "cash cow" College Loans, automatic wage and Disability check garnishment (for Federal Loans, which comprise the majority of Student Loans), and when "defaulted" loans make the Dept of Ed a material profit if they default, and without bankruptcy or, for that matter, any Standard Consumer Protections, lenders have little interest in negotiating with student borrowers to help them avoid "default."

Therefore, this one-sided bargain is itself evidence of the inequality of the bargaining parties, and the court should choose not to enforce the illegal contract under the original terms.

VI. MONOPOLY / PRICE-GOUGING

STATEMENT OF FACTS: Students are forced to endure a monopoly by the legal textbook definition of the term. That fact was verified as true, supra, and the discussions regarding "Monopoly," supra, are hereby incorporated in the 'Statement of Facts,' here, and in this instant Brief as if fully set forth verbatim herein.

STANDARD OF LAW – According to Princeton University (and as supported by the courts)

"The Clayton Antitrust Act of 1914 (Pub.L. 63-212, 38 Stat. 730, enacted October 15, 1914, codified at 15 U.S.C. § 12–27, 29 U.S.C. § 52–53), was enacted in the United States to add further substance to the U.S. antitrust law regime by seeking to prevent anticompetitive practices in their incipiency. That regime started with the Sherman Antitrust Act of 1890, the first Federal law outlawing practices considered harmful to consumers (monopolies ,cartels, and trusts)."
Source: "Clayton Antitrust Act ," Princeton University,
http://www.princeton.edu/~achaney/tmve/wiki100k/docs/Clayton_Antitrust_Act.html

1. **Total suppression of free competition is not necessary to vitiate a combination of entities acting in concert to form an illegal monopoly.**
2. **A monopoly need not refer to one single company, but may refer to a group of entities, acting in concert.**
3. **Anti-Trust Laws, prohibiting illegal monopolies, apply even if there is the absence of an intentional conspiracy within the parties.**

1. Total suppression of free competition is not necessary to vitiate a combination of entities acting in concert to form an illegal monopoly. In a seminal ruling on monopolies, The U.S. Supreme Court held:

"To vitiate [impair, Destroy, or otherwise negate the legal validity of] a combination [of entities engaging in a monopoly] such as the act of Congress [e.g., the statute of July 2, 1890, commonly known

as the Anti-Trust Act, and entitled "An act to protect trade and commerce against unlawful restraints and monopolies." 26 Stat. 209] condemns, it need not be shown that such combination, in fact, results, or will result, in a total suppression of trade or in a complete monopoly, **but it is only essential to show that, by its necessary operation,** it tends to restrain interstate or international trade or commerce, **or tends to create a monopoly in such trade or commerce, and to deprive the public of the advantages that flow from free competition."** [Emphasis added in bold and underline for clarity; not in original.]

(Northern Securities Co. v. United States, 193 U.S. 197 at 198-199, U.S. Sup. Ct., March 14, 1904)

2. A monopoly need not refer to one single company, but may refer to a group of entities, acting in concert: Although a 'monopoly' sometimes refers to one single company, which holds a corner on the market, The Courts have held that a group of entities may constitute a monopoly:

The U.S. Supreme Court, in **AMERICAN NEEDLE, Inc., infra,** citing Copperweld Corp. v. Independence Tube Corp. , 467 U. S. 752, held that that parties within a corporate entity or closely held affiliate (e.g. a wholly owned or controlled subsidiary) are to be treated as a single entity under Section 1 of the Sherman Antitrust Act's antitrust laws (despite the possible treatment as separate entities under corporation law), and therefore prohibited from illegal monoploisation of the market – even if no intentional conspiracy is involved.

3. Anti-Trust Laws, prohibiting illegal monopolies, apply even if there is the absence of an intentional conspiracy within the parties:

"The relevant inquiry is therefore one of substance, not form, which does not turn on whether the alleged parties to contract, combination, or conspiracy are part of a legally single entity or seem like one firm or multiple firms in any metaphysical sense. The inquiry is whether the agreement in question joins together "separate economic actors pursuing separate economic interests," Copperweld, 467 U. S., at 768, such that it "deprives the marketplace of independent centers of decisionmaking," id. , at 769, and therefore of diversity of entrepreneurial interests and thus of actual or potential competition."
(AMERICAN NEEDLE, INC. v . NATIONAL FOOTBALL LEAGUE et al., 538 F. 3d 736, reversed and remanded, U.S. Sup. Ct., May 24, 2010)

The Court, in American Needle, supra, reasoned that while the NFLP's decisions about licensing are a concerted activity and, thus, are covered by Section 1, it did not necessarily deprive the marketplace of independent centers of decisionmaking, and of diversity of entrepreneurial interests and thus of actual or potential competition. (The court, in Needle, held that "Football teams that need to cooperate are not trapped by antitrust law," and remanded the decision to the lower court for a finding of fact consistent with its holding of law: "What role it properly plays in applying the Rule of Reason to the allegations in this case is a matter to be considered on remand. [line-break] Accordingly, the judgment of the Court of Appeals is reversed, and the case is remanded for further proceedings consistent with this opinion. *It is so ordered.* ")

Courts typically apply the 'Rule of Reason' analysis to actions of a joint venture, invalidating the agreement only if the anti-competitive economic effects outweigh the pro-competitive benefits of the agreement.

Thus, while the actions of NFL Properties ("NFLP"), in American Needle, are not as easily classified as

concerted (and therefore, illegal) activity, and therefore allowed limited immunity to antitrust laws, nonetheless, they are still subject to the same Anti-Trust Laws, even if there is the absence of an intentional conspiracy within the parties which are either part of a legally single entity or seem like one firm or multiple firms in any metaphysical sense.

ARGUMENT: Higher Education, legally, and by the definition, constitutes a public utility since such businesses constitute a de facto monopoly for the services they provide within a particular jurisdiction. Since a monopoly exists when a specific person or enterprise is the only supplier of a particular commodity, it can be argued that colleges are an enterprise, or group of businesses that have sole access to a market of higher education, as they are the only supplier of a college degree, and are thus comparable to the monopoly of a group electric companies, who are the sole supplier of electricity, and thus subject to government regulation of rates. While this approach is used successfully in many other industries where a monopoly would otherwise threaten the consumer, it is "liberal," and can not work in isolation, and thus, the other solutions outlined in this instant brief (such as giving borrowers proper notice of the terms of their loan, and invalidating vague laws) must also be employed in order to save the quickly-sinking Higher Education industry in The United States. However, government intervention, addressing monopoly-induced price-gouging, to uphold the Rule of Law, is needed.

As we have seen in other monopolies (whether legal "public utilities," such as electric companies, telephone service, and the Internet –or illegal monopolies), if government regulation is not effected, price-gouging results, and thus offend Anti-Trust Laws.

CONCLUSION: Although government regulation of tuition (e.g., a "Tuition Freeze") would normally be "Big Government Interference," and thus liberal, there is precedent that "Utility Ratemaking" would be appropriate to control (by regulation) the costs of tuition, as is done with other industries classified as public utilities. However, whether or not American Higher Education can legally be classified as a "Public Utility," nonetheless, it is a monopoly, by the legal definition, and the ramifications of this fact can not be ignored: This Court must act to invalidate illegal monopolies which jeopardise the future of our nation's Higher Education system, and, by extension, our youth.

VII. CONTRACT LAW: VIOLATION OF PUBLIC POLICY

STATEMENT OF FACTS – The U.S. Federal Government, specifically lawmakers (Legislative) and lenders and guarantors of Student Loans (Executive) have abrogated and violated the law in numerous ways, as described supra –including, but not limited to, the following:

1) By writing (and executing) laws which are in violation of **Constitutional Due Process prohibitions against being Void For Vagueness** regarding the more recent Student Loans which have originated;
2) Abrogating **13TH Amendment Standards,** which prohibit Indentured Servitude;
3) **The FEDERAL Government, through its Legislative Branch, violated Breach of Contract** regarding the more older **FEDERAL Student Loan Contracts** which were taken out under Terms of Contract that included many or all Standard Consumer Protections, which Terms of the Contract were illegally changed retroactively –and, in many cases, without proper notice;
4) **The FEDERAL Government, through its Legislative Branch, violated Tortious Interference** of previously-instituted **PRIVATE Student Loan Contracts** (by removing Standard Consumer Protections and changing the terms of existing Loan Instruments, upon which borrowers relied) – and, in many cases, without proper notice;

5) **Lacking 'Good Faith,'** and under the false (and predatory) pretenses of having Standard Consumer Protections, thereby violating the **Implied Warranty of Merchantability** of said Student Loans;
6) Engaging in **Unconscionable Contracts;** and,
7) **Engaging in Illegal Monopolies, in violation of current Anti-Trust Laws, and subsequent price-gouging.**

It is certain that The U.S. Government, in its exercise of Legislative authority (in writing many vague and Unconstitutional laws) and Executive authority (by engaging in illegal loans contracts) violated Public Policy numerous times, as shown in the instant brief, supra.

STANDARD OF LAW:

A contract typically must have one other "Sine Quo Non" essential element in order to be enforceable:

- **No Violation of Public Policy: In other words, a contract whose subject matter is illegal contact can NOT be legally enforced.**

In a recent, 1982 decision, which is still current and binding case law, The U.S. Supreme Court, citing McMullen v. Hoffman, 174 U.S. 639 (1899), held that:

"'The authorities from the earliest time to the present unanimously hold that no court will lend its assistance in any way towards carrying out the terms of an illegal contract. In case any action is brought in which it is necessary to prove the illegal contract in order to maintain the action, courts will not enforce it . . . ." Id., at 654. "[T]o permit a recovery in this case is in substance to enforce an illegal contract, and one which is illegal because it is against public policy to permit it to stand. The court refuses to enforce such a contract and it permits defendant to set up its illegality, not out of any regard for the defendant who sets it up, but only on account of the public interest." Id., at 669."
(Kaiser Steel Corp. v. Mullins, 455 U.S. 72, at 78, U.S. Sup. Ct., Jan. 13, 1982)

The court went on to clarify:

"A court's refusal to enforce an arbitrator's award under a collective-bargaining agreement because it is contrary to public policy is a specific application of the more general doctrine, rooted in the common law, that a court may refuse to enforce contracts that violate law or public policy. W. R. Grace & Co. v. Rubber Workers, 461 U.S. 757, 766 (1983); Hurd v. Hodge, 334 U.S. 24, 34 -35 (1948). That doctrine derives from the basic notion that no court will lend its aid to one who founds a cause of action upon an immoral or illegal act, and is further justified by the observation that the public's interests in confining the scope of private agreements to which it is not a party will go unrepresented unless the judiciary takes account of those interests when it considers whether to enforce such agreements. E. g., McMullen v. Hoffman, 174 U.S. 639, 654 -655 (1899); Twin City Pipe Line Co. v. Harding Glass Co., 283 U.S. 353, 356 -358 (1931). In the common law of contracts, this doctrine has served as the foundation for occasional exercises of judicial power to abrogate private agreements." (Paperworkers v. Misco, Inc., 484 U.S. 29, at 43, U.S. Sup. Ct., Dec. 1, 1987)

ARGUMENTS – The Federal Government, itself, must (#1) obey Federal and Constitutional Law, specifically regarding Tortious Interference of previously-instituted Student Loan Contracts, (#2) must act in Good Faith, (#3) must not write Vague Laws that offend the sensibilities, and (#4) must not violate the Implied Warranty of Merchantability of said Student Loans. These actions also violate a citizen's other Substantive Due Process (SDP), 9TH Amendment rights, retained by the people.

CONCLUSION – The U.S. Government, in violating The Law, in violating all of the above, has effectively, entered into illegal contracts and committed actions that constitute a violation of Public Policy, and therefore any contract into which they enter in void ab initio, and also give rise to a claim of violation of Constitutional violation of Substantive Due Process (SDP), 9TH Amendment Retained Rights, and other torts enumerated herein.

VIII. EQUAL PROTECTION

STATEMENT OF FACTS: Student Loans are unique in their lack of all Standard Consumer Protections. Whether it is a Credit Card loan or a loan to Donald Trump, for huge sums of monies –far exceeding any mere student loan –one may obtain bankruptcy under normal terms (that is, without having to meet the near-impossible "Undue Hardship" standard described in the instant brief).

"From a legal standpoint, you state you own nothing but a 5-year-old car, some 401(k) money and about $25,000 in [Credit Card] debt. I don't have information on your income or monthly expenses, so I cannot comment on your monthly budget, but you are very likely eligible for Chapter 7 bankruptcy."
* http://www.bankrate.com/finance/debt/bankruptcy-wipe-credit-card-debt.aspx
("Use bankruptcy to wipe credit card debt?," by By Justin Harelik, Bankrate.com, Posted: Sept. 11, 2012)

"Phillip A. Paul in 1987 was declared criminally insane for killing an elderly woman after voices in his head told him she was a witch…He obtained several credit cards and went on shopping sprees that led to a bankruptcy filing."
* http://www.cbsnews.com/8301-504083_162-5396578-504083.html
http://www.q13fox.com/kcpq-101809-insane,0,1811300.story?page=2#13515383788841&if_height=196
* http://www.msnbc.msn.com/id/33358068/ns/us_news-crime_and_courts
http://newsdeskinternational.wordpress.com/2009/09/18/dangerous-mentally-ill-murder-escapes-field-trip
http://www.startribune.com/templates/Print_This_Story?sid=64666987
http://boards.library.trutv.com/showthread.php?294715-Insane-killer-escapes-on-field-trip-to-county-fair
* http://www.capecodonline.com/apps/pbcs.dll/article?AID=/20091018/NEWS11/910189986
("Criminally insane, but out on the street," by Nicholas K. Geranios, Associated Press, Oct 17, 2009 - SPOKANE, Wash.)

"Donald Trump -- or companies that bear his name - have declared bankruptcy four times...Trump's first visit to bankruptcy court was in 1991, when his Atlantic City casino, the Taj Mahal, was buried under a mountain of debt. The Taj carried a $1 billion price tag and was financed by junk bonds carrying a staggering 14 percent interest rate. As construction completed, the economy slumped, as did the Atlantic City gambling scene, soon plunging Trump into $3.4 billion of debt...In December 2008 his company

missed a $53.1 million bond interest payment, propelling Trump Entertainment Resorts into bankruptcy court and plunging its stock price from $4 per share to a mere 23 cents."
* http://abcnews.go.com/Politics/donald-trump-filed-bankruptcy-times/story?id=13419250
("Donald Trump's Companies Filed for Bankruptcy 4 Times," By Amy Bingham (@Amy_Bingham), April 21, 2011, ABCNews.com)

"Scott Harrison…The pride of Scotland had problems with drinking, drugs and consequently the law. A world champion in 2003, Harrison's life later spun out of control. In 2006, he pulled out of a fight to check into rehab. By July 2007, the ever-classy Harrison declared bankruptcy after losing his last fight… over unpaid taxes."
* http://www.businesspundit.com/25-rich-athletes-who-went-broke
("25 Rich Athletes Who Went Broke," BusinessPundit.com, May 18, 2009)

"A resident who was being evicted for selling drugs on the property declared bankruptcy."
* http://www.nmhc.org/Content/ServeFile.cfm?FileID=3511
("STATEMENT OF THE NATIONAL MULTI HOUSING COUNCIL, et al.," BEFORE THE U.S. HOUSE COMMITTEE ON JUDICIARY, MARCH 3, 2003)

STANDARD OF LAW:

"All persons born or naturalized in the United States, and subject to the jurisdiction thereof, are citizens of the United States and of the state wherein they reside. No state shall make or enforce any law which shall abridge the privileges or immunities of citizens of the United States; nor shall any state deprive any person of life, liberty, or property, without due process of law; nor deny to any person within its jurisdiction the equal protection of the laws." (Am. 14, Sec. 1)

The Courts have held:

"When social and economic legislation enacted by Congress is challenged on equal protection grounds as being violative of the Fifth Amendment, the rational basis standard is the appropriate standard of judicial review."
(United States. R. Retirement Bd. v. Fritz, 449 U.S. 166-167, December 9, 1980)

The "Rational Basis Test" is described infra, in the "Cruel and Unusual" section, and the citations to case law regarding same are hereby incorporated in this 'Standard of Law,' here, and in this instant Brief as if fully set forth verbatim herein.

ARGUMENT: Obviously, Student Loan borrowers are singled out in the very unequal treatment of their loan –not even counting the many abrogations of their Due Process rights (such as lack of proper notice, and subjugation to Vague Laws and Illegal Monopolies). For a very good treatment of this issue, see supra, the comparison between business loans, medical loans, housing loans, etc., with Student Loans. If any of these other types of loans (housing, medical, business loans) were deprived of Standard Consumer Protections, there would be the hue and cry and great public clamour about great political corruption. FURTHER: If, for example, electric rates, Internet rates, gas, water, or even telephone service, were subjected to this type of price-gouging (where prices, adjusted for inflation, rose 800% to 1,000%, as in the case on tuition inflation), there would be great public outcry, such as there has never been before, and would never be in the future.

This would be true, since such disparities in treatment of de facto public utilities –and/or the loans needed to finance them –would affect a large segment of the populace. However, since College Students do not comprise a large quantity of the U.S. Population, and, per capita, certainly have an even lower-than-average force of "political clout," then their subjugation is no more surprising then that of the African American slaves in the 1860's America:

The slaves were not "politically" strong enough to win a case in court for their cause, and the result was the following: The U.S. Supreme Court held, by a 7-2 majority vote, in the infamous 'Dred Scott' case, that: "[T]he negro might justly and lawfully be reduced to slavery for his benefit." (Chief Justice Roger B. Taney, writing for the Court. Dred Scott v. John F. Sanford, 15 L.Ed. 691; 19 How. 393; 60 US 393 at 407.(December Term, 1856).)

CONCLUSION: Past egregious violations of Equal Protection were morally reprehensible, and we must learn from our past mistakes – and not repeat them. This Court has a duty to afford all citizens equal protection of the laws. The disparate treatment of Student Loans (compared to all other types of loan instruments, including, most notably, Credit Cards, another form of unsecured debt) does not advance any rational government interest, and thus fails the 'Rational Basis Test,' more fully delineated infra, and thus, laws which make a distinction regarding Student Loans, making them unique in their deprivation of ALL Standard Consumer Protections, thus offend Equal Protection under the law, and are deserving of being struck by The Courts as such.

IX. CRUEL/UNUSUAL: INTEREST AND/OR LATE FEES

STATEMENT OF FACTS: College loans are the only loans in America (and probably in the world) that lack all Standard Consumer Protections (Truth in Lending; Bankruptcy proceedings; Statutes of Limitations; Right to Refinance; adherence to Usury Laws; and, or course, Fair Debt & Collection practices, etc.). As a result, Student Borrowers are not afforded bankruptcy protections, and furthermore are not even told this (due to lack of Truth in Lending protections). Lastly, students who borrow may have their wages automatically garnished without the need for a court order (unlike most other loans, which would not be able to skip the lengthy litigation here). This is in addition to the soaring "tuition inflation" of the original principle, and does not include both Interest and, in some cases, excessively high Late Fees, combined which might push the original principle (which is highly inflated by a factor of 8 to 10 times, due to decades of tuition inflation) to 5 or 10 times its original cost. That is a "tall" claim, but here is proof:

PROOF:

In the 1956-57 school year, one source[1] reports a year of college cost $138, and another source[2] is in close agreement. But remember we have to adjust for inflation: The $138 figure is about $1,062.71 in 2008 dollars[7], probably the same for 2009, considering that year's inflation[3] was about 0.1%. However, the cost of college in 2009 was about $10,066, about a 10X increase. Other sources[4-6] indicate a cost of $6,142.58 for tuition and $6,920.94 for housing, for a total of $13,063.52 per year, even higher than the $10,066 fig.

Sources:

[1] "Massive increases in higher-ed costs a mystery to be solved," by Virgil Swing, (DuluthNewsTribune.com), May 15, 2008

** http://www.DuluthNewsTribune.com/event/search of: "Virgil Swing: Massive increases in higher-ed costs"
** http://www.google.com/search?hl=en&q=%22Budgeteer+News%22+%22Virgil+Swing%22+2008+may+15&start=20&sa=N&filter=0
** http://search.yahoo.com/search;_ylt=A0geu5Vnxr9KXSsBZFJXNyoA?p=%22Budgeteer+News%22+%22Virgil+Swing%22+2008+may+15&fr2=sb-top&fr=yfp-t-501&sao=0
** Cache1: http://GordonWatts.com/FannyDeregulation/VirgilSwingArticle.JPG
** Cache 2: http://GordonWayneWatts.com/FannyDeregulation/VirgilSwingArticle.JPG

[2] "In my personal case, while a student at a public college in the 1950s, tuition was $100 per semester. There was no aid but neither was there any debt at graduation."
** "Student Aid and College Tuition: The Upward Spiral," EdWatch Vermont, by David W. Kirkpatrick, Senior Education Fellow, U.S. Freedom Foundation, www.freedomfoundation.us, 01 November 2007
* http://www.schoolreport.com/schoolreport/articles/College_Tuition_11_07.htm
** Cache1: http://GordonWatts.com/FannyDeregulation/DavidKirkpatrickArticle.JPG
** Cache 2: http://GordonWayneWatts.com/FannyDeregulation/DavidKirkpatrickArticle.JPG

[3] "2008 inflation rate at 0.1%, slowest gain in 54 years for consumer prices," US Inflation Calculator, January 16, 2009
* http://www.usinflationcalculator.com/inflation-rates/2008-inflation-rate-at-01-slowest-gain-in-54-years-for-consumer-prices/1000357

[4] "Average college cost breaks $30,000: Average for 4-year private school passes key mark; total costs for both public and private schools up well above inflation," Rob Kelley, Oct 27 2006, http://money.cnn.com/2006/10/24/pf/college/college_costs/index.htm states: "The average tuition at four-year public colleges and universities is $5,836 for the 2006-07 school year…With room and board, four-year public colleges average $12,796 for in-state residents." The $5,836 figure for tuition would be either $6,227.39 or $6,057.77 in 2008, according to the WestEgg inflation calculator, depending on whether you use 2006 or 2007 as your initial year. The average of those two figures is $6,142.58 for college tuition in 2008

[5] "Preparing to Go to College," p4, http://www.pearsonhighered.com/assets/hip/us/hip_us_pearsonhighered/samplechapter/0131716662.pdf states: "According to The College Board, the average college housing costs in the 2004–2005 academic year were about $6,222," which would be either $7,036.63 or $6,805.25 in 2008, according to the WestEgg inflation calculator, depending on whether you use 2004 or 2005 as your initial year. The average of those two figures is $6,920.94 for college housing in 2008

[6] Adding $6,920.94 for housing, and $6,142.58 for tuition yields $13,063.52.
[7] http://www.westegg.com/inflation conversion: "What cost $138 in 1956 would cost $1081.50 in 2008," & "What cost $138 in 1957 would cost $1043.92 in 2008," whose average is $1062.71.

When a loan "principle" that is inflated (by tuition inflation) to 1,000% (that is, 10 times) increases (due to Interest/fees) by, say, 5 times, the loan then becomes inflated to a total of 5,000% (50-times) the Free Market value, which is, indisputably, a huge increase, and without doubt, a huge stressor. (This is even more stressful due to the "surprise" nature of the loan, since it did not have Truth in Lending notice protections to the lender.)

Stress related to soaring college tuition, resultant excessive college debt –and the inability to obtain relief by way of bankruptcy proceedings –has, therefore, resulted in a spike in suicides.

PROOF:

*** >> "Jan Yoder was preparing for her son's funeral when the phone rang. It was another student loan collector wanting to know when her son would pay up. [line-break] Her terse response: Jason is dead. And, she said, "You are part of the reason he took his own life." [line-break] It was those calls and the burden of crushing debt, she says, that led her depressed son to take the drastic action of killing himself late last month. He did so in the Illinois State University chemistry building in Normal -- in the very lab where he did his research to earn his master's degree..."When it gets to the point where people are fleeing the country, going off the grid or taking their own lives, you know something has gone horribly wrong," said Alan Collinge, founder of Student Loan Justice, which is pushing to change student lending laws."
* "Crushing debt: SUICIDE | Man who owed as much as $100,000 felt trapped by his student loans and 'lower than low' that he had no job," BY DAVE NEWBART Staff Reporter / dnewbart@suntimes.com, Chicago Sun-Times, September 24, 2007, as reported by Higher Ed NewsWeekly: from the Illinois Board of Higher Education, page 57, September 28, 2007 edition
* http://www.ibhe.state.il.us/NewsDigest/NewsWeekly/092807.pdf
* excerpt cross-posted to "Newsalert": http://nalert.blogspot.com/2007/09/student-loan-debt-drives-man-to-suicide.html
* excerpt cross-posted to HighBeam Research: http://www.highbeam.com/doc/1P2-7613353.html
* See also: http://StudentLoanJustice.org

*** >> "Dear Steve, [line-break] My student loans are almost $42,000 dollars. I pay almost $260 dollars per month and all but $12 dollars is interest and the principal continues to go higher...I frequently think about suicide; thinking about my son is the only thing that has so far kept me from committing suicide. [line-break] John"
* "I'm Thinking of Suicide Because of My Student Loans. – John," by Steve Rhode, Get Out of Debt Guy, March 29, 2010
* http://getoutofdebt.org/5493/im-thinking-of-suicide-because-of-my-student-loans-john

*** >> "Dan Lozer's tiny paycheck means he'll be paying off those loans until 2029...Lozer said there was a time when he thought about suicide."
* "A Pastor's Student Loan Debt," by Libby Lewis, NPR, July 14, 2007
* http://www.npr.org/templates/story/story.php?storyId=11980696

ALSO: The massive resultant costs (roughly a 5,000% increase in costs of college), and draconian wage-garnishment powers don't account for a distressed debtor having his/her professional license yanked, which makes it even more difficult (if not already impossible) to pay for said loan:

*** >> "In Texas, a chiropractor who borrowed $70,000 for school in the 1990s is suffering. Some $400,000 is being demanded of him, and the state has suspended his license to practice. He is currently driving trucks in Amarillo. He wants to pay his debt, with interest, but can't afford well over a quarter of a million dollars in penalties and interest. [line-break] In Boston; a medical student can't get licensed

because he can't pay $52,000 on what began as a $3,000 debt. [line-break] A suicide in Oregon. A suicide in Maryland. People who have fled the country due to the explosion of their student loan debt. The list goes on and on."
* "Company's march toward student loan monopoly scary," by Alan Collinge, The News Tribune, June 19, 2007
* http://www.thenewstribune.com/opinion/othervoices/story/90638.html
* See also Collinge's website: http://StudentLoanJustice.org
* See also: http://www.dailykos.com/story/2007/06/21/348975/-Sallie-Mae-s-March-Towards-Monopoly
* See also: http://chirotalk.proboards.com/index.cgi?board=suicides&action=print&thread=3987

These facts are indisputably "Cruel and Unusual" punishment, if anything is.

STANDARD OF LAW:

FEDERAL (United States)

The 8TH Amendments to the U.S. Constitution specifically prohibits both excessive fines as well as cruel and unusual punishments:

"Excessive bail shall not be required, nor excessive fines imposed, nor cruel and unusual punishments inflicted." (Am. 8)

The U.S. Supreme Court held even further that:

"The Eighth Amendment's proscription of cruel and unusual punishments prohibits not only barbaric punishments, but also sentences that are disproportionate to the crime committed."
(Solem v. Helm, 463 U.S. 277, June 28, 1983)

INTERNATIONAL (United Nations)

State concerned/Articles violated:

CAT-Convention Against Torture and Other Cruel Inhuman or Degrading Treatment or Punishment
cite: http://www2.ohchr.org/english/law/cat.htm
State party: United States of America
Date of signature 18/04/88
Date of receipt of instrument by the UN 21/10/94
Date of entry into force 20/11/94

Article 1 [section] 1. "For the purposes of this Convention, the term "torture" means any act by which severe pain or suffering, whether physical or mental, is intentionally inflicted on a person for such purposes as obtaining from him or a third person information or a confession, punishing him for an act he or a third person has committed or is suspected of having committed, or intimidating or coercing him or a third person, or for any reason based on discrimination of any kind, when such pain or suffering is inflicted by or at the instigation of or with the consent or acquiescence of a public official or other person acting in an official capacity. It does not include pain or suffering arising only from, inherent in or incidental to lawful sanctions."

ARGUMENTS: It can not be argued that failure to pay a debt on time is not a crime. So, it stands to reason that late payment (or non-payment) of a debt is indeed a crime.

Measured by these standards, any late fees (which are just punishment for said crime of lateness in repayment) and/or Interest which combine with the initial principle debt to place a borrower in debt for life, without any mathematical possibility of ever repaying said debt, and automatic wage-garnishment of his/her wages, tax returns, Disability, and even Social Security retirement, is a fine that is clearly excessive, and a punishment that is cruel and unusual. The "Undue Hardship" standard is so difficult to meet, it practically renders bankruptcy proceedings impossible for the debtor, so, it is "practically" impossible (even if not totally impossible).

In no other type of debt is a debtor unable to obtain a standard bankruptcy for discharge of all (or part) of the debt owed –or other Standard Consumer Protections: Student Loans have absolutely none of the Standard Consumer Protections afforded all other types of loans.

CONCLUSION: There is no doubt that a person who is in debt slavery for a life-time, with no hope of ever repaying his/her debt, due to excessive late fees is the object of Cruel and Unusual punishment (for said tardiness to pay), as well as the recipient of excessive fines imposed (for the crime of late payments on the debt). Such a life-time of indentured servitude (debt slavery) is unquestionably disproportionate to any crime that may have been committed by the borrower.

For this reason alone, excessive Interest and Fees would be in violation of The Law and deserving of being struck by The Courts.

X. CRUEL/UNUSUAL: SUSPENSION OF PROFESSIONAL LICENSES

STATEMENT OF FACTS:

"For those with professional licenses (doctors, lawyers, teachers, accountants, dentists, etc.), **failure to pay student loan debt can result in loss of the state-issued license.** While some argue that **it's counter-productive to strip the borrower of the means by which they would earn money to pay down the debt**, it is a reality." [Emphasis in bold-underlined for clarity; Not in original]
* http://www.disabled-world.com/disability/finance/loan-default.php
("Consequences of Student Loan Default," DISABLED WORLD, Information provided by The Slomka Law Firm, P.C., 30 December 2011, Fair Use quote)

"Legislation allowing professional licensing institutions to revoke the licenses of individuals who have failed to repay their student loans has been passed in several states and introduced in several others. The professional licensing institutions to which the bills apply differs from state to state, but the general procedural structure of the bills are quite similar across states. **The bills give power to the licensing boards to revoke or deny renewal of professional or occupational licenses** upon receipt of information from an education loan administer that the individual has defaulted on their loan or has somehow failed to fulfill the loans obligations." [Emphasis in bold-underlined for clarity; Not in original]
* http://www.uvm.edu/~vlrs/Education/studentloansprofessionallicenses.pdf
("Student Loan Defaults and Professional License," **The UNIVERSITY of VERMONT)**

"Professional licenses. Are you an attorney, physician, or other profession that requires a state license? Student loans are notifying your state licensure board of your default and in many states this results in your license being suspended until the debt is paid. In South Carolina, I have not seen attorney licenses being suspended – but this could be coming."[Emphasis in bold-underlined for clarity; Not in original]
*** "Student loan collection methods," Blog written by Columbia, SC bankruptcy lawyer Daniel Stone, By Daniel Stone on August 14, 2012
*** http://danielstonelaw.com/student-loan-collection-methods/

"This page discusses debt settlement for defaulted federal student loans. The US Department of Education has very strong powers to compel payment of defaulted student loans, **including** garnishment of wages and Social Security benefits, income tax refund offset and **blocking renewal of professional licenses.**" [Emphasis in bold-underlined for clarity; Not in original]
*** "Student Loan Debt Settlements," FinAid.org, by Mark Kantrowitz
*** http://www.finaid.org/loans/settlements.phtml

*** >> "In Texas, a chiropractor who borrowed $70,000 for school in the 1990s is suffering. Some $400,000 is being demanded of him, **and the state has suspended his license to practice.** He is currently driving trucks in Amarillo. **He wants to pay his debt, with interest, but can't** afford well over a quarter of a million dollars in penalties and interest. [line-break] **In Boston; a medical student can't get licensed because he can't pay $52,000 on what began as a $3,000 debt.** [line-break] A suicide in Oregon. A suicide in Maryland. People who have fled the country due to the explosion of their student loan debt. The list goes on and on." [Emphasis in bold-underlined for clarity; Not in original]
* "Company's march toward student loan monopoly scary," by Alan Collinge, The News Tribune, June 19, 2007
* http://www.thenewstribune.com/opinion/othervoices/story/90638.html
* See also Collinge's website: http://StudentLoanJustice.org
* See also: http://www.dailykos.com/story/2007/06/21/348975/-Sallie-Mae-s-March-Towards-Monopoly
* See also: http://chirotalk.proboards.com/index.cgi?board=suicides&action=print&thread=3987

"NASHVILLE, Tenn. -- Tennessee is cracking down on people who are not paying their student loans. [line-break] If you stop paying on your student loan and go into default, the state may take away your license to work. [line-break] Hundreds of cosmetologists, nurses even barbers have lost their licenses. But our investigation found some doctors are treated differently. [line-break] Some who have been in default for years, are allowed to keep right on practicing."
*** "Some Doctors Owe Hundreds Of Thousands In Student Loans," By Ben Hall, Investigative Reporter, News Channel 5, 02 February 2012
http://www.newschannel5.com/story/16644559/some-doctors-owe-hundreds-of-thousands-in-student-loans

STATEMENT OF FACTS:
BAD CREDIT (FROM STUDENT LOAN CRIMES) CAN COST YOU A JOB OR A PROMOTION
"Slebodnick says he was told he would not be allowed to start work at an ITT campus in Michigan, because a credit check revealed he had some $50,000 in outstanding student loans and had recently declared bankruptcy." * http://abcnews.go.com/Business/story?id=7919922&page=1
("When Your Credit Report Costs You a Job Offer," by Russell Goldman (@GoldmanRussell), ABC News, 26 June 2009)

"A new bill would prohibit employers from using credit reports in hiring decisions" (sub-headline)
* http://money.usnews.com/money/careers/articles/2009/07/29/should-your-credit-report-cost-you-a-job
("Should Your Credit Report Cost You a Job?," by Liz Wolgemuth, US News, 29 July 2009)

("Bad Credit Can Cost You a Job or a Promotion," by Lynnette Khalfani-Cox, BV on Money, 04 August 4th 2010)
* http://www.bvonmoney.com/2010/08/04/bad-credit-can-cost-you-a-job-or-a-promotion

("Bad Credit Could Cost You Your Dream Job," by CreditScore.net Staff Writer, 20 August 2012)
* http://www.creditscore.net/bad-credit-and-your-dream-job

("Can Bad Credit Still Cost You a Job?," by Cindy Perman, CNBC.com Staff Writer, Friday, 08 April 2011)
* http://www.cnbc.com/id/42491940/Can_Bad_Credit_Still_Cost_You_a_Job

The answer to that is the next article's title:

("Bad Credit Can Cost You a Job.," Kerry Hannon, FORBES, 31 January 2012)
* http://www.forbes.com/sites/kerryhannon/2012/01/31/bad-credit-can-cost-you-a-job

STANDARD OF LAW:

FEDERAL (United States)

The U.S. Supreme Court, citing Cummings v. Missouri, 4 Wall. 277, 71 U. S. 321, held that:

"The theory upon which our political institutions rest is that all men have certain inalienable rights; that among these are **life, liberty, and the pursuit of happiness,** and that, in the pursuit of happiness, **all avocations [employment opportunities],** all honors, all positions, **are alike open to every one,** and that, in the protection of these rights, all are equal before the law. Any deprivation or suspension of any of these right for past conduct is punishment, and can be in no other wise defined." **[Comments in bracket to clarify. Emphasis in bold-underlined for clarity; Not in original]**
(Hawker v. New York, 170 U.S. 189, at 203, April 18, 1898)

Subsequent case law of the U.S. Supreme Court has affirmed this more specifically:

"[An employee] has an important, constitutionally protected interest in continued employment..."
(FDIC v. Mallen, 486 U.S. 230, May 31, 1988)

"**[An employee's] interests in retaining his employment**, in disproving his employer's charges of incompetence or inability, and -- more intangibly -- in redressing an instance of alleged discrimination, **are all substantial.**"[Emphasis in bold-underlined for clarity; Not in original]
(Logan v. Zimmerman Brush Co., 455 U.S. 422, at 434, February 24, 1982)

The U.S. Supreme Court also held that:

"...the significance of the private interest in retaining employment cannot be gainsaid [denied or

disputed]. We have frequently recognized the severity of depriving a person of the means of livelihood. See Fusari v. Steinberg, 419 U. S. 379, 419 U. S. 389 (1975); Bell v. Burson, supra, at 402 U. S. 539; Goldberg v. Kelly, 397 U. S. 254, 397 U. S. 264 (1970); Sniadach v. Family Finance Corp., 395 U. S. 337, 395 U. S. 340 (1969). While a fired worker may find employment elsewhere, doing so will take some time, and is likely to be burdened by the questionable circumstances under which he left his previous job. See Lefkowitz v. Turley, 414 U. S. 70, 414 U. S. 83-84 (1973)." **[Comments in bracket to clarify. Emphasis in bold-underlined for clarity; Not in original]**
(Cleveland Bd. of Educ. v. Loudermill, 470 U.S. 532, at 543, March 19, 1985)

The Court has held that:

"[T]he right to hold specific private employment and to **follow a chosen profession free from unreasonable governmental interference** comes within the "liberty" and "property" concepts of the Fifth Amendment, Dent v. West Virginia, 129 U. S. 114; Schware v. Board of Bar Examiners, 353 U. S. 232; Peters v. Hobby, 349 U. S. 331, 349 U. S. 352 (concurring opinion); cf. Slochower v. Board of Education, 350 U. S. 551; Truax v. Raich, 239 U. S. 33, 239 U. S. 41; Allgeyer v. Louisiana, 165 U. S. 578, 165 U. S. 589-590; Powell v. Pennsylvania, 127 U. S. 678, 127 U. S. 684..." [Emphasis in bold-underlined for clarity; Not in original]
(Greene v. McElroy, 360 U.S. 474, at 492, June 29, 1959)

The Court also held, regarding employment, that:

"Three factors are relevant in determining what process is constitutionally due: (1) the private interest that will be affected by the official action; (2) the risk of an erroneous deprivation of such interest through the procedures used, and the probable value, if any, of additional or substitute procedural safeguards; and (3) the Government's interest. Mathews v. Eldridge, 424 U. S. 319, 335. Respondent asserts an interest in an uninterrupted paycheck; but **account must be taken of the length and finality of the temporary deprivation of his pay."** [Emphasis in bold-underlined for clarity; Not in original]
(Gilbert v. Homar, 520 U.S. 924, June 9, 1997)

INTERNATIONAL (United Nations)

International Law agrees:

CCPR-International Covenant on Civil and Political Rights
cite: http://www2.ohchr.org/english/law/ccpr.htm
State party: United States of America
Date of signature 05/10/77
Date of receipt of instrument by the UN 08/06/92
Date of entry into force 08/09/92

"PART I

Article 1

1. All peoples have the right of self-determination. By virtue of that right they freely determine their political status and freely pursue their economic, social and cultural development.

2. All peoples may, for their own ends, freely dispose of their natural wealth and resources without prejudice to any obligations arising out of international economic co-operation, based upon the principle of mutual benefit, and international law. In no case may a people be deprived of its own means of subsistence.

3. The States Parties to the present Covenant, including those having responsibility for the administration of Non-Self-Governing and Trust Territories, shall promote the realization of the right of self-determination, and shall respect that right, in conformity with the provisions of the Charter of the United Nations."

ARGUMENTS:

When a student who owes a college loan is deprived of his or her professional license (or his/her ability to get a job and/or a promotion), this implicates Constitutional Protections regarding life, liberty, the pursuit of happiness, and also the ability to obtain and retain employment in a chosen field. However, when a person who owes on a Student Loan can not obtain employment in his/her field due to suspension and/or denial of one's professional licensure, this makes a hard situation even more impossible, and can, effectively, constitute an infinite "length" and total and complete "finality" of deprivation of his or her pay.

This, when considered against the "Rational Basis Test," is does not pass the test, which the courts have held as valid:

"The applicable rational basis test is one which
"permits the States a wide scope of discretion in enacting laws which affect some groups of citizens differently than others. The constitutional safeguard is offended only if the classification rests on grounds wholly irrelevant to the achievement of the State's objective. State legislatures are presumed to have acted within their constitutional power despite the fact that, in practice, their laws result in some inequality. A statutory discrimination will not be set aside if any state of facts reasonably may be conceived to justify it."
McGowan v. Maryland, 366 U.S. at 366 U. S. 425-426 (citations omitted)."
(Craig v. Boren, 429 U.S. 190, at 221-222, December 20, 1976)

If a person has already gone into default, it should be obvious that there is difficulty in repaying, and placing additional obstacles in front of the borrower makes it even less likely he/she will repay the debt. Under the "rational basis test," the courts will uphold a law as Constitutional only if it is rationally related to a legitimate government purpose; however, removal of one's license effects the OPPOSITE purpose: It makes it more difficult to repay the debt. Therefore, these laws are 'unjust laws' and thus not rational and offend Equal Protection as a form of cruel and unusual punishment which does not advance any rational Governmental Interest (but rather, achieves just the opposite).

CONCLUSION: As such, such defective laws should be stuck as void ab initio and Unconstitutionally invalid on their face, as well as applied. This is not to say that the government's hands should be tied to compel repayment of the loan in ways which are neither cruel nor unusual. However, choosing a methodology which makes repayment more difficult, not less, does not advance any rational Governmental Interest (but rather, achieves just the opposite), and should be struck..

XI. FRAUD / CORRUPTION:

STATEMENT OF FACTS: U.S. DEPT OF ED DECEPTIVE

The U.S. Department of Education, in reporting defaults, uses the oblique "cohort rate" method, as quoted here:

"The U.S. Department of Education today released the official FY 2009 national student loan cohort default rate, which has risen to 8.8 percent, up from 7.0 percent in FY 2008. The cohort default rates increased for all sectors: from 6.0 percent to 7.2 percent for public institutions, from 4.0 percent to 4.6 percent for private institutions, and from 11.6 percent to 15 percent at for-profit schools."
* http://www.ed.gov/news/press-releases/default-rates-rise-federal-student-loans
("Default Rates Rise for Federal Student Loans: Department continues work to protect taxpayer funds and help students manage their debt," Contact: Sara Gast or Jane Glickman, (202) 401-1576, press@ed.gov, 12 September 2012)

While the DOE technically is not lying, they report the "cohort" rates, which only cover the 2-year period from the disbursement of the loan, which even they admit in this same paper: "Those borrowers who defaulted after the two-year period are not counted as defaulters in this data set."

By not counting borrowers who defaulted later, the appearance of almost complete success in avoiding defaults is given. This is legally indistinguishable from failing to tell the purchaser of a vehicle of mechanical defects which make the car have bad brakes if it is driven a distance further than 2 miles, by mentioning a "failure" rate of 2 miles or less. This, of course, implicates Implied Warranty of Merchantability, addressed supra, and the "official" cohort rates are not accurate:

"Currently, 16 percent of borrowers are in default, nearly twice the official default rate. [line-break] Stephen Burd, senior policy analyst with the New America Foundation's Education Policy Program, called the official default rate "an extremely flawed measure."
* http://www.nytimes.com/2012/09/09/business/a-big-student-loan-default-problem-but-how-big.html
("A Big Default Problem, but How Big?," by Andrew Martin, NY Times, 08 September 2012)

In fact, Higher Ed Jobs' figures suggest an eventual default rate of one-third or more:

"An SLA analysis found that over one-third of borrowers were showing some signs of distress in either being late with their payments or requesting that payments be postponed through a process called forbearance or deferment."
* http://higheredcareers.blogspot.com/2010/10/student-loans-new-subprime-crisis-high.html
* Cf: http://www.higheredjobs.com/m/articles/articleDisplay.cfm?id=231&start=11&auth=8
("Student Loans: New Subprime Crisis, High-Risk Business or Changed Industry?," by Andrew Hibel, Higher Ed Jobs, Monday, 25 October 2012)

The problem is probably much worse:

"Long-range projections by the Department of Education estimate that the default rate over 20 years, for

borrowers who began repayment in 2009, is 17 percent; among students who attended profit-making colleges, the predicted default rate is 49 percent."
* http://www.nytimes.com/2012/09/09/business/a-big-student-loan-default-problem-but-how-big.html
* ("A Big Default Problem, but How Big?," by Andrew Martin, NY Times, 08 September 2012)

This is not surprising, as USA Today reports the following: "Student loan defaults have risen for the sixth straight year, as students from traditional non-profit universities have an increasingly difficult time paying off their college debt."
* http://www.usatoday.com/story/news/nation/2012/09/28/college-default/1591933/
("More college students defaulting on student loan," by Meghan Hoyer, USA Today, 30 September 2012)

STATEMENT OF FACTS: ADDITIONAL MASSIVE, SYSTEM-WIDE FRAUD

There are certainly isolated instances of a student not being told that the or she qualifies for a state-funded scholarship –or the proper rules to reapply. While these may be genuine instances of a denial of Due Process, this brief focuses mainly on instances of wide-spread fraud, which affect the whole of the system –and add to any isolated instances alluded to here.

There are far more examples of actual fraud within the system, in which the Dept of Education, lenders, and Universities have been under investigation:

("Sallie Mae's Success Too Costly? Does The Lender's Success Come At Too Steep A Cost To Students And Taxpayers?," by Daniel Schorn, 60 Minutes, 08 May 2006)
* http://www.cbsnews.com/video/watch/?id=1594476n
* http://www.cbsnews.com/1770-5_162-0.html?query=sallie+success+costly&tag=srch&searchtype=cbsSearch
* http://www.google.com/search?q=%22sallie+mae's+success+too+costly%22+cbs&hl=en&tbo=d&noj=1&ei=OKSgUN3BBITe8wTFwoGQCg&start=50&sa=N&biw=1280&bih=929

"System-wide" fraud is not unlike the concept of odious debt, in which a nation enters into massive debt, "looting the national funds," and saddling its citizens with debt that is misappropriated –or is, in some cases, used to oppress citizens—a concept analogous to the invalidity of contracts signed under coercion. Some have even called Greece's European debt crisis (circa 2010) an 'odious' debt.

""This investigative report demonstrates that inappropriate marketing practices, conflicts of interest, and back-room deals are found all too frequently in the student loan industry," Sen. Edward M. Kennedy (D-Mass.), chairman of the education committee, which conducted the investigation, said in a statement. "The findings underscore the urgent need for systemic reform in the student loan system.""
* http://www.washingtonpost.com/wp-dyn/content/article/2007/06/14/AR2007061402018.html
("Senate Report Details Alleged Student Loan Company Enticements," by Amit R. Paley, Washington Post Staff Writer, Friday, 15 June 2007)
Cf: "SENATOR EDWARD M. KENNEDY RELEASES REPORT ON STUDENT LOAN SYSTEM," Laura Burton Capps/ Melissa Wagoner (202) 224-2633, Thursday, 14 June 2007
* http://www.help.senate.gov/newsroom/press/release/?id=b8abd3bd-402f-4232-a88c-e4ceb246253b
* Cf: http://www.immagic.com/eLibrary/FIN_AID/CONGRESS/S070614K.pdf

“As per an investigation by the New America Foundation, Higher Ed Watch has learned of several financial aid administrators who had significant *personal* investments in a publicly traded, for-profit student loan company. Following our request for university comment, an implicated Dean was placed on leave by his parent institution and the case referred to the New York State Attorney General's Office.”
* http://higheredwatch.newamerica.net/blogs/2007/04/stock
* http://www.newamerica.net/blog/higher-ed-watch/2007/news-scoop-stock-options-provided-financial-aid-officers-student-loan-provider-
* cf: http://www.unz.org/Pub/NewAmerica-2007apr-00016
(“NEWS SCOOP: Stock Provided to Financial Aid Officers by Student Loan Provider,” by Stephen Burd, 04 April 2007)

“Abstract: This report was prepared by the Chairman's Staff of the Senate Health, Education, Labor and Pensions Committee setting forth the findings of an investigation into marketing practices in the Federal Family Education Loan program ("FFEL"). Evidence uncovered by the Chairman's investigation demonstrates that many FFEL lenders routinely engage in marketing practices that violate the letter and spirit of the inducement prohibition of the Higher Education Act. Given the breadth of the evidence presented in this report it is clear that the problem is systemic and cannot be isolated to a few "problem" lenders or schools. The report addresses a discrete set of marketing practices including: (1) Some FFEL lenders provided compensation to schools with the expectation, and in some cases an explicit agreement, that the school will give the lenders preferential treatment, including placement on the school's preferred lender list; (2) Other FFEL lenders spent large sums on travel and accommodation expenses for meetings of Advisory Boards comprised of school officials, and often expected these benefits to yield increased loan volume, or other preferential treatment, at Board members' schools; (3) School officials held financial interests, including stock and options to purchase stock, in FFEL lenders which are on the preferred lender list or are otherwise recommended to students; and (4) School officials received payments for consulting and other services from FFEL lenders which are on the preferred lender list or are otherwise recommended to students. (Contains 52 notes and 118 exhibits.)”
http://www.eric.ed.gov/ERICWebPortal/search/detailmini.jsp?_nfpb=true&_&ERICExtSearch_SearchValue_0=ED497127&ERICExtSearch_SearchType_0=no&accno=ED497127
(“Title: Report on Marketing Practices in the Federal Family Education Loan Program,” U.S. Dept of Education, 2007-06-14)

“The New America Foundation's Higher Ed Watch Project was the first to uncover and publicize illegal payoffs from student loan banks to college financial aid officials. When we discovered that several financial aid directors at major universities and a Department of Education official owned and sold a significant amount of student loan company stock, we became suspicious. Our subsequent investigation and those of others revealed a series of payoffs, kickbacks, and luxury gifts to aid officials, thus compromising college-student relationships. Supposedly impartial intermediaries in the federal financial aid system were operating with substantial personal conflicts of interest. [line-break] This page contains information about our investigation and the fallout in the financial aid world, including 10 firings and resignations, hundreds of settlements with state Attorney Generals, and new federal legislation.”
* http://education.newamerica.net/special_report_student_loan_scandal
(“Special Report: Student Loan Scandal,” The New America Foundation, 2009-present)

“Front page of today’s AA NEWS has a story, “EMU sends back donor money,” that in a mild way links EMU’s Enrollment Services’ division to the national scandal that’s been raging all year over how student

loan makers have bought influence at countless universities by making "gifts", also known as illegal bribes, to university officials in some cases or to the Universities directly."
* http://emutalk.org/2007/08/sallie-mae-and-emus-refund-of-161000-of-310000-in-untoward-gifts
("Sallie Mae and EMU's refund of $161,000 of $310,000 in untoward gifts," by Mark Higbee, EMUtalk.org: Talk for and about Eastern Michigan U., 11 August 2007)
* Cf: http://education.newamerica.net/special_report_student_loan_scandal (Under "August 11-15, 2007" header)

"In particular, NASFAA [National Association of Student Financial Aid Administrators] leaders consistently call upon Congress to raise federal loan limits, and they lobby Congress to allow lenders to perform loan counseling for the students instead of having the colleges provide the information in an unbiased manner."
* http://www.scribd.com/doc/62984624/Alan-Michael-Collinge-The-Student-Loan-Scam
* cf: http://www.beacon.org/productdetails.cfm?PC=2014
* cf: http://www.amazon.com/The-Student-Loan-Scam-ebook/dp/B001T9N3MS
("The Student Loan Scam: The Most Oppressive Debt in U.S. History - and How We Can Fight Back," COLLINGE, Alan Michael, page 90, ISBN-13: 978-0-8070-4229-8)

Collinge's claim is backed up:

"With recent big tuition increases and with Congress talking about boosting loan limits, the amount of student debt is expected to continue to grow...The National Association of Student Financial Aid Administrators is among the groups supporting an increase in the loan limits, President Dallas Martin said."The reality is, given the current economy and circumstances, most families and students will continue to rely on some form of credit to pay college expenses," Martin said."
* http://www.easttennessean.com/news/higher-debts-come-with-higher-education-1.2054323
* http://www.columbiachronicle.com/back/2003_fall/2003-10-06/campus10.html
* Cf: http://issuu.com/cadc/docs/cc_2003_10_06_a
("Higher education loads up students with higher debt," by Diane Caroll, Knight Ridder Newspapers, 22 September 2003)

"Education Department Seeks More Information From 55 Colleges on Dealings With Student Lenders," by Paul Basken, THE CHRONICLE of Higher Education, 01 November 2007
* http://chronicle.com/article/Education-Department-Presses/171
* cf: Note 94 on "Employment Law Update," by Deborah C. Brown, Associate Vice President for Legal Affairs and Human Resources at Stetson University College of Law, February 2008, http://www.law.stetson.edu/conferences/highered/archive/2008/Employment_Law_Update.pdf)

"For months, leaders at the U.S. Education Department have battled the impression, fostered by Democratic members of Congress and New York Attorney General Andrew M. Cuomo, that the Bush administration did far too little to regulate the behavior of lenders and colleges until its hand was forced by the burgeoning scandal in the student loan industry. [line-break] Margaret Spellings challenged that view in May testimony before a House of Representatives committee. And on Monday, department officials delivered their latest defense during a session in which they briefed members of the National Association of Student Financial Aid Administrators about their recent activities on a range of fronts. [line-break] Not only did the administration officials look to the past -- suggesting that the department

had actually been out in front of Congress and Cuomo in trying to crack down on preferred lender lists and improper inducements from lenders to colleges -- but they also signaled that they are getting more aggressive in their oversight of the loan programs. The overall message from department officials – which seemed aimed as much at the representatives of Cuomo's office in the audience as at the financial aid administrators themselves -- was, "We're on the case.""
* http://www.insidehighered.com/news/2007/07/10/nasfaa
("Education Department, on the Case," by Doug Lederman, Inside Higher Ed, 10 July 2007)

"The Illinois attorney general's office is lashing out at Westwood College, which has four Chicago-area campuses, claiming the institution misleads students enrolled in its criminal justice program, putting them deep in debt and saddling them with a nearly worthless degree for pursuing careers in Illinois law enforcement. [line-break] Westwood, a career college owned by Alta College of Denver, is the latest for-profit school to come under scrutiny by regulators and consumer advocates, who claim some for-profit schools overpromise and underdeliver."
* http://articles.chicagotribune.com/2012-01-18/business/ct-biz-0118-westwood-20120118_1_illinois-attorney-office-plans-westwood-college
("Illinois attorney general's office plans to sue Westwood College: Among the complaints against the for-profit school are poor job-placement rates, high-pressure sales tactics, low graduation rates, excessive profit margins and the burdening of students with crushing debt," by Gregory Karp, Chicago Tribune reporter, 18 January 2012)

STANDARD OF LAW: Contract Law regarding violation of Public Policy and Good Faith, as described, supra, is implicated, and such sections of the instant brief are hereby incorporated in this section as if fully set forth verbatim herein.

ARGUMENT:

The DOE is not acting in "Good Faith" when it purposely occludes and hides the true default rates, which, if known, would force public opinion to shut down the runaway increases in "soaring" loan limits, which U.S. Congress continually raises and increases (and, of course, prevent another Bubble, as in the recent American Housing Bubble Crisis). This, in turn, would limit the number of dollars available for College Tuition, and the market pressures of lessened loan dollar availability would drive prices (e.g., tuition, costs of college) down, saving both students (tuition) as well as taxpayers (who make and/or guarantee these loans). However, more notably, this would drive down the default rate, and the DOE (as well as lenders who may eternally garnish wages) would stand to lose, and so this occlusion of the true default rate is not without motive, and is resultantly suspect. As well, all the other parties in this fiasco are "bad actors," including the lenders and colleges. While fraud varies from college to college, and from lender to lender, the fraud permeates the system, which is the only reasonable way to explain the rampant tuition inflation, whereby college prices are no longer affordable, even though America continues to fall behind other nations in Higher Education:

*** >> "U.S. Teens Trail Peers Around World on Math-Science Test," by Maria Glod, Washington Post, 07 December 2007, Page A07 in print
* http://www.washingtonpost.com/wp-dyn/content/article/2007/12/04/AR2007120400730.html

*** >> "U.S. falls in education rank compared to other countries," by Elaine Wu (via the Daily Trojan) (U-Wire), 04 October 2005, The Kapi'o Newspress
* http://www.online.unisanta.br/2005/10-01/intern-2.htm
* http://dailycollegian.com/2005/10/04/united-states-falls-in-international-rank-in-education
* Cached at:
* http://www.google.com/search?hl=en&q=%22falls+in+education+rank+compared+to+other+countries%22+%22Elaine+Wu%22&aq=f&oq=&aqi=
And:
* http://search.yahoo.com/search?p=%22falls+in+education+rank+compared+to+other+countries%22+%22Elaine+Wu%22&toggle=1&cop=mss&ei=UTF-8&fr=yfp-t-832
* (Key phrases search: "falls in education rank compared to other countries" "Elaine Wu")

*** >> "U.S. slips lower in coding contest: In what could be an ominous sign for the U.S. tech industry, American universities slipped lower in an international programming contest," by Ed Frauenheim, Staff Writer, CNET News, 07 April 2007
* http://news.cnet.com/U.S.-slips-lower-in-coding-contest/2100-1022_3-5659116.html
* http://www.zdnet.com/news/u-s-slips-lower-in-coding-contest/142206
* http://www.google.com/search?sourceid=chrome&ie=UTF-8&q=%22In+what+could+be+an+ominous+sign+for+the%22#q=%22+American+universities+slipped+lower+in+an+international+programming+contest%22&hl=en&tbo=d&ei=FrmgUMDWJZTY9ATcqoDQCg&start=10&sa=N&bav=on.2,or.r_gc.r_pw.r_qf.&fp=8235ac65df7283a3&bpcl=38093640&biw=1280&bih=929
* And:
* http://search.yahoo.com/search;_ylt=AtyR0Uzi_CiIZUco2NfOaxObvZx4?p=%22+American+universities+slipped+lower+in+an+international+programming+contest%22&toggle=1&cop=mss&ei=UTF-8&fr=yfp-t-701
* (Key phrases search: "American universities slipped lower in an international programming contest")

CONCLUSION:

Therefore the conclusion drawn by the many allegations of wide-spread fraud within the U.S. Department of Education, Colleges, Universities, and lenders –and soaring default rates that result from said fraud, is not an untenable conclusion:

"The student loan debt crisis is looming larger than ever. According to a new report by the Department of Education, default rates on student loan debt have soared to 13.4 percent during the first three years of the debt repayment. More than one in 10 borrowers have already defaulted on student loan repayments, and the crisis is just getting underway. With the total amount of student loan debt surpassing $1 trillion (and exceeding total credit card debt) for the first time ever earlier this year, indications are that, absent a quick and vigorous economic recovery, unemployed or underemployed college graduates tens of thousands of dollars in debt will continue to default at an accelerating rate."
* http://www.thenewamerican.com/culture/education/item/13090-student-loan-defaults-on-the-rise-as-debt-crisis-worsens
("Student Loan Defaults on the Rise as Debt Crisis Worsens," by Charles Scaliger, The New American, 03 October 2012)

This wide-spread fraud, soaring default rates, and declining American Higher Education, and declining American economy is in addition to **the inability to get or keep a job, or get a promotion due to bad credit on a Student Loan:** The laws that permit discrimination based on bad credit are perverse in a Cruel/Unusual manner: Unless the person is applying in a Financial Institution, where fiduciary ability is keenly required, it is actually Constitutionally prohibited Cruel/Unusual to punish such a person:

A person who owes much money is actually in more need of a job than someone who owes a small amount (or none), and this perverse tradition, combined with the wide-spread fraud and corruption in the system, is a gross violation of human rights and Constitutional rights.

XII. VIOLATIONS OF CONSTITUTIONALITY-PROTECTED RELIGIOUS FREEDOMS:

Besides secs. XII-XIV, here, see also Apx. E-F for more religious cites.

Introduction: While "moral law" of any particular religion is not 'legally' binding upon This Court, nonetheless, mores and customs of the people are the basis for legal systems in use in America, particularly those of common Judeo-Christian beliefs. And, as such, for those followers of said religions, for whom these dictates are binding, the following standards might prove useful in determining whether or not Constitutionally-protected Religious Freedoms have been violated: Many lawmakers place restrictions on Student Loans that they, themselves, would not place upon their own loan instruments – which violate a whole host of standards in many religions:

STATEMENT OF FACTS—The "Golden Rule" is accepted by observant Jews, Christians, and Muslims:

Accepted by all observant Jews and Christians as Canon Scripture:
** "...thou shalt love thy neighbour as thyself: I am the LORD." LEVITICUS 19:18b, Holy Bible, KJV (See also: Leviticus 19:34 – **Note: The Christian Old Testament comprises parts of the Jewish Torah**)

Accepted by all observant Christians as Canon Scripture:
** "...Thou shalt love thy neighbour as thyself," MATTHEW 22:39b, MARK 12:31b, Holy Bible, KJV
** "Do to others as you would have them do to you," LUKE 6:31, Holy Bible, NIV
** "Therefore all things whatsoever ye would that men should do to you, do ye even so to them: for this is the law and the prophets," MATTHEW 7:12, Holy Bible, KJV

Accepted by all observant CATHOLIC Christians as Canon Scripture:
** "Do that to no man which thou hatest:..." TOBIT 4:15a, Holy Bible, KJV
** "Judge of the disposition of thy neighbour by thyself." SIRACH 31:18, Douay-Rheims 1899 American Edition
** "Be considerate of the other people at the table and treat them the way you want to be treated." SIRACH 31:15, Good News Translation

Accepted by all observant MUSLIMS, practicing ISLAM, Canon Scripture:
** "And let not those among you who are blessed with graces and wealth swear not to give (any sort of help) to their kinsmen, Al-Masakin (the poor), and those who left their homes for Allah's Cause. Let them pardon and forgive. Do you not love that Allah should forgive you? And Allah is Oft-Forgiving, Most Merciful." Surah An-Nur (The Light), chapter 24, verse 22, Holy Qur'an, Dar-us-Salam Publications translation [Emphasis added by underline for clarity; not in original], brief Fair Use quote

** “Let not those among you who are endued with grace and amplitude of means resolve by oath against helping their kinsmen, those in want, and those who have left their homes in Allah's cause: let them forgive and overlook, do you not wish that Allah should forgive you? For Allah is Oft-Forgiving, Most Merciful.” SURAH 24:22, Holy Qur'an, Abdullah Yusuf Ali translation [Emphasis added by underline for clarity; not in original], brief Fair Use quote

** 1. Woe to those that deal in fraud,-
** 2. Those who, when they have to receive by measure from men, exact full measure,
** 3. But when they have to give by measure or weight to men, give less than due.
** 4. Do they not think that they will be called to account?
–SURAH 83:1—4, Holy Qur'an, Abdullah Yusuf Ali translation, brief Fair Use quote

** 1. Woe to Al-Mutaffifin [those who give less in measure and weight (decrease the rights of others)],
** 2. Those who, when they have to receive by measure from men, demand full measure,
** 3. And when they have to give by measure or weight to men, give less than due.
** 4. Think they not that they will be resurrected (for reckoning),
–Surah Al-Mutaffifin (Those Who Deal in Fraud), chapter 83, verses 1—4, Holy Qur'an, Dar-us-Salam Publications translation [No emphasis added; bracketed comments are in original], brief Fair Use quote

Accepted by all observant Jews and Christians as Canon Scripture:
16 – At the same time I gave orders to your judges: "Listen carefully to complaints and accusations between your fellow Israelites. Judge fairly between each person and his fellow or foreigner.
17 – Don't play favorites; treat the little and the big alike; listen carefully to each. Don't be impressed by big names. This is God's judgment you're dealing with. Hard cases you can bring to me; I'll deal with them." **– Deuteronomy 1:16-17 Holy Bible, “The Message” translation**

But the Lord said to Samuel, “Do not consider his appearance or his height, for I have rejected him. The Lord does not look at the things people look at. People look at the outward appearance, but the Lord looks at the heart.” **– 1st Samuel 16:7, Holy Bible, NIV**

When the righteous are in authority, the people rejoice: but when the wicked beareth rule, the people mourn. **– Proverbs 29:1, Holy Bible, KJV**

Accepted by all observant Christians as Canon Scripture: The Holy Bible
“46 And He said, “Woe to you also, lawyers! For you load men with burdens hard to bear, and you yourselves do not touch the burdens with one of your fingers.**” “3** Therefore whatever they tell you to observe, *that* observe and do, but do not do according to their works; for they say, and do not do. **4** For they bind heavy burdens, hard to bear, and lay *them* on men’s shoulders; but they *themselves* will not move them with one of their fingers.**” [Luke 11:46; Matthew 23:3-4, NKJV, Words of Jesus in red]**
Commentary: 'Lawyers' & others, such as Federal Lawmakers, who “load men with burdens” (by passing laws stripping students' ability to obtain bankruptcy for most college loans -and stripping 'Truth In Lending' requirements to give borrowers fair 'Due Process' notice of this) certainly violate the Golden Rule. Lawmakers are hypocrites: They wouldn't accept this 'too hard to bear' 'burden' on their shoulders!

Acts 10:34, Holy Bible, NIV:
Then Peter began to speak: “I now realize how true it is that God does not show favoritism
James 2:1, Holy Bible, NIV:
My brothers and sisters, believers in our glorious Lord Jesus Christ must not show favoritism.

Accepted by all observant Jews and Christians as Canon Scripture:
"Do not oppress the widow or the fatherless, the alien or the poor. In your hearts do not think evil of each other.'" **– Zechariah 7:10, Holy Bible, NIV**

18 The sons of Israel did not strike them because the leaders of the congregation had sworn to them by the Lord the God of Israel. And the whole congregation grumbled against the leaders. 19 But all the leaders said to the whole congregation, "We have sworn to them by the Lord, the God of Israel, and now we cannot touch them. **– Joshua 9:18-19, Holy Bible, NASB [<u>We must not fail to keep our word</u>.]**

Accepted by all observant Christians as Canon Scripture:

James 1:27, Holy Bible, KJV "Pure religion and undefiled before God and the Father is this, To visit the fatherless [e.g., orphans] and widows in their affliction, and to keep himself unspotted from the world." [Comments in bracket for clarification; not in original]

Accepted by all observant Muslims as Canon Scripture:

Surah An-Nisa' (The Women), chapter 4, verses 8—9, Holy Qur'an, Dar-us-Salam Publications translation, brief Fair Use quote:
8. And when the relatives and the orphans and Al-Masakin (the poor) are present at the time of division, give them out of the property, and speak to them words of kindness and justice.
9. And let those (executors and guardians) have the same fear in their minds as they would have for their own, if they had left weak offspring behind. So let them fear Allah and speak right words.

SURAH 4:8—9, Holy Qur'an, Abdullah Yusuf Ali translation, brief Fair Use quote:
8. But if at the time of division other relatives, or orphans or poor, are present, feed them out of the (property), and speak to them words of kindness and justice.
9. Let those (disposing of an estate) have the same fear in their minds as they would have for their own if they had left a helpless family behind: Let them fear Allah, and speak words of appropriate (comfort).

<u>STANDARD OF LAW:</u>
"Congress shall make no law respecting an establishment of religion, <u>or prohibiting the free exercise thereof</u>; or abridging the freedom of speech, or of the press; or the right of the people peaceably to assemble, and to petition the government for a redress of grievances." (Am. 1, Emphasis in boldface and underline added for clarity; not in original) Even in such compelling cases as Public Education, the right to Free Exercise of religion trumps the law of the land, per the U.S. Supreme Court:

"Held:

1. The State's interest in universal education is not totally free from a balancing process when it impinges on other fundamental rights, such as those specifically protected by the Free Exercise Clause of the First Amendment...
2. Respondents have amply supported their claim that enforcement of the compulsory formal education requirement after the eighth grade would gravely endanger if not destroy the free exercise of their religious beliefs...
3. Aided by a history of three centuries as an identifiable religious sect and a long history as a successful and self-sufficient segment of American society, the Amish have demonstrated the sincerity of their religious beliefs...

4. The State's claim that it is empowered, as parens patriae, to extend the benefit of secondary education to children regardless of the wishes of their parents cannot be sustained against a free exercise claim of the nature revealed by this record..."
* http://caselaw.lp.findlaw.com/scripts/getcase.pl?navby=case&court=us&vol=406&invol=205
* (Wisconsin v. Yoder, 406 U.S. 205, May 15, 1972)

ARGUMENT: As a matter of law, the persecution to which borrowers are subjected is far and above that which the Amish, as described in Wisconsin v. Yoder, supra, encountered.

Obiter Dictum: The lawmakers' own actions (enacting 'unjust laws') violate the 'Golden Rule,' and if they subscribe to these religions, Judaism (which accepts Leviticus as Canon), and Christianity (which accepts both Old and New Testaments of the Holy Bible as Canon), and, as indicated supra, the Muslim faith. –If said parties trust their own Holy Scriptures' standard as valid, then they are bound by said standards regarding unjust laws, oppression, and other prohibited acts:

CONCLUSION: Lawmakers/Courts are obligated to lighten the burden to what they, themselves, in SIMILAR (bad job market) circumstances would desire, and thus not abridge religious freedoms.

XIII. Violations of Constitutionality-protected Religious Freedoms (continued)
STATEMENT OF FACTS: Eventual discharge of debts is mandated by many religions

Besides secs. XII-XIV, here, see also Apx. E-F for more religious cites.

Student Loan debt can not be discharged in bankruptcy except in very rare circumstances, and can almost never be forgiven. This conflicts with a wide body of Holy Scriptures of various religions—and indeed: This is not the first time in history blanket forgiveness of debts has been considered in **this passage of Holy Scripture which is accepted by both observant Jews and Christians:**

"1At the end of every seven years you shall grant a release of debts. 2And this is the form of the release: Every creditor who has lent anything to his neighbor shall release it; he shall not require it of his neighbor or his brother, because it is called the LORD's release…9Beware lest there be a wicked thought in your heart, saying, 'The seventh year, the year of release, is at hand,' and your eye be evil against your poor brother and you give him nothing, and he cry out to the LORD against you, and it become sin among you. 10You shall surely give to him, and your heart should not be grieved when you give to him, because for this thing the LORD your God will bless you in all your works and in all to which you put your hand. 11For the poor will never cease from the land; therefore I command you, saying, 'You shall open your hand wide to your brother, to your poor and your needy, in your land.'"
(HOLY BIBLE, Deuteronomy 15:1-11, NKJV) **Note:** Lev. 25:13 ("'In this Year of Jubilee, each of you shall return to his possession") shows that this is a forgiveness of a lease, not of a purchase, and that the land returns to the original family, but the principal remains the same: See *infra.*

While some Christians may not be aware that the Old Testament is still generally legally-binding (except for the blood sacrifice of Jesus' own death), it indeed is:
This Old Testament Law is still binding since Jesus clearly said, in MATTHEW 5:17 the following: "Think not that I am come to destroy the law, or the prophets: I am not come to destroy, but to fulfil." (Holy Bible, KJV, Words of Jesus in red) The only thing no longer done is animal sacrifice for a sin offering: Jesus fulfilled that in its entirety, but nothing else. As an example to prove this to be correct, note that even long after Jesus' death and resurrection, his followers were still keeping the Old Testament Sabbath: Acts, chapters 13 and 15-18, and in particular: "And Paul, as his manner was, went in unto them, and three sabbath days reasoned with them out of the scriptures,"(ACTS 17:2, Holy Bible, KJV). So the Deuteronomy passage is still legally binding upon all observant and practicing Christians.

STANDARD OF LAW: The 'Free Exercise' statement of law, supra, regarding the First Amendment is incorporated here as if fully set forth verbatim.

ARGUMENT: Those 'moral conservatives' who would suggest this is not fair for those students who have already repaid their debts should note that in the Deuteronomy passage above, no allowance is made for special treatment for those debtors who had repaid their debts -they just had to 'tough it out' and be glad their neighbors' debts were forgiven. This is the kind of 'tough love' that is needed to address the higher education and bankruptcy crisis hitting our nation, not unlike the 'hard-line' advice given in both Old and New Testaments regarding how to address housing and homeless issues. Isaiah 58:6-7 (Old Testament) demands that you take in the homeless wandering stranger -and no less than Jesus, Himself, in the New Testament (Matthew 25:31-46) repeats this same demand -echoing all sustentative requirements laid down by the prophet Isaiah: Jesus makes no bones about the consequences for not feeding the hungry, clothing the naked, or taking in the homeless: With Divine authority conferred upon Him, Jesus does no less than send the malefactors directly to Hell. -- Jesus also said: "And whenever you stand praying, if you have anything against anyone, forgive him and let it drop (leave it, let it go), in order that your Father Who is in heaven may also forgive you your [own] failings and shortcomings and let them drop." (Mark 11:25, Holy Bible, AMP) -- LASTLY, Jesus also said: "...forgive, and ye shall be forgiven." (Luke 6:37b, Holy Bible, KJV)

CONCLUSION: Therefore, if this standard still be in force, then Student Loans must be treated like all other loan instruments and forgiven after 7 years.

XIV. Violations of Constitutionality-protected Religious Freedoms (continued)
STATEMENT OF FACT: Numerous Bible passages prohibit usury (e.g., interest on loans) from being charged:

Besides secs. XII-XIV, here, see also Apx. E-F for more religious cites.

(From the Amplified Bible)

Matthew 25:27
Then you should have invested my money with the bankers, and at my coming I would have received what was my own with interest.

Luke 19:23
Then why did you not put my money in a bank, so that on my return, I might have collected it with interest?

NOTE: Jesus does not say He agrees with interest being charged --He only acknowledges its existence; but, even assuming Jesus now approves of interest charged on loans, a change from Old Testament times, nonetheless, He does *not* approve of over-bearing or oppressively crushing interest and charges, as described below -- You use Scripture to interpret Scripture:

However, since Matthew 5:17, quoted supra, shows that Jesus still considers the Old Testament to be in force, therefore the following are still current standards of conduct:

Exodus 22:25, (AMP, e.g., "Amplified Bible" version, here & below)
If you lend money to any of My people with you who is poor, you shall not be to him as a creditor, neither shall you require interest from him.

Leviticus 25:36
Charge him no interest or [portion of] increase, but fear your God, so your brother may [continue to] live along with you.

Leviticus 25:37
You shall not give him your money at interest nor lend him food at a profit.

Deuteronomy 23:19
You shall not lend on interest to your brother--interest on money, on victuals, on anything that is lent for interest.

Deuteronomy 23:20
You may lend on interest to a foreigner, but to your brother you shall not lend on interest, that the Lord your God may bless you in all that you undertake in the land to which you go to possess it.

Nehemiah 5:7; 5:10; 10:32b
7 I thought it over and then rebuked the nobles and officials. I told them, You are exacting interest from your own kinsmen. And I held a great assembly against them. 10 I, my brethren, and my servants are lending them money and grain. Let us stop this forbidden interest! 32b ...we shall not buy it on the Sabbath or on a holy day; and we shall forego raising crops the seventh year [letting the land lie fallow] and the compulsory payment of every debt.

Psalm 15:5
[He who] does not put out his money for interest [to one of his own people] and who will not take a bribe against the innocent. He who does these things shall never be moved.

Proverbs 28:8
He who by charging excessive interest and who by unjust efforts to get gain increases his material possession gathers it for him [to spend] who is kind and generous to the poor.

Ezekiel 18:8
Who does not charge interest or percentage of increase on what he lends [in compassion], who withholds his hand from iniquity, who executes true justice between man and man,

Ezekiel 18:13
And has charged interest or percentage of increase on what he has loaned [in supposed compassion]; shall he then live? He shall not live! He has done all these abominations; he shall surely die; his blood shall be upon him.

Ezekiel 18:17
Who has withdrawn his hand from [oppressing] the poor, who has not received interest or increase [from the needy] but has executed My ordinances and has walked in My statutes; he shall not die for the iniquity of his father; he shall surely live.

Ezekiel 22:12
In you they have accepted bribes to shed blood; you have taken [forbidden] interest and [percentage of] increase, and you have greedily gained from your neighbors by oppression and extortion and have forgotten Me, says the Lord God.

However, in violation of these religious beliefs, 'Usury' (interest) is still charged on loans, Student Loans included.

STANDARD OF LAW: The 'Free Exercise' statement of law, supra, regarding the First Amendment is incorporated here as if fully set forth verbatim.

ARGUMENT: This is in clear violation of these standards (still current, and not out-dated), and any follower of either Judaism or Christianity, is in violation to charge interest on any loan.

Interest can not, therefore, legally (according to Holy Bible Law) be charged, and the most that might be legitimately argued is a "rate of inflation" increase – no more, and not even a late fee, although that is debatable, since on-time payment is obligated by both Old and New Testaments:

"27 Do not withhold good from those to whom it is due, when it is in your power to act.
28 Do not say to your neighbor, "Come back tomorrow and I'll give it to you"— when you already have it with you." (Proverbs 3:27-28, Holy Bible, NIV)

"Let no debt remain outstanding, except the continuing debt to love one another, for whoever loves others has fulfilled the law." (Romans 13:8, Holy Bible, NIV)

Even the Scriptures that are in the Catholic Canon of the Holy Bible have application here:

"Fight to the death for truth, and the Lord God will fight for you." Sirach 4:28, Holy Bible, NRSV, 1989

Obiter Dictum: If there is, indeed a 'God,' then, in order to avoid Divine Wrath in an eternal hereafter, it might also be a good idea to be compliant regarding all these petitions/grievances, for that reason alone:

> "4 Hear this, you who trample the needy and do away with the poor of the land, 5...skimping on the measure, boosting the price and cheating with dishonest scales, 6 buying the poor with silver and the needy for a pair of sandals...7 The LORD has sworn by himself, the Pride of Jacob: "I will never forget anything they have done." **(Amos 8:4-7, Holy Bible, NIV;** *Cf.: Lev. 19:35-36; Deut. 25:13-16; Job 31:6; Prov. 11:1, 16:11, 20:10, 20:23; Ez. 45:10; Amos 8:1-7; Micah 6:11)*

CONCLUSION: Interest charges (other than service fees and rate-of-inflation increases, as well as any and all abuse) must cease and desist, and restitution made, in order to be compliant with the Free Exercise Clause of the 1st Amendment. It is not unreasonable for Lawmakers to grant a prohibition on Usury here.

XV. PREDATORY and SUB-PRIME LENDING

STATEMENT OF FACTS: The facts, in other parts of the instant brief, both supra and infra, regarding predatory and sub-prime lending, are hereby incorporated in this section and in this instant Brief as if fully set forth verbatim herein.

STANDARD OF LAW:

The Investor's Dictionary gives this general definition of 'Predatory Lending' as:

"the practice of convincing borrowers to agree to unfair and abusive loan terms. This could be done

either through outright deception or through aggressive sales tactics, taking advantage of borrowers' lack of understanding of extremely complicated transactions."
* http://www.investordictionary.com/definition/predatory-lending
* (Predatory lending: Definition, InvestorDictionary.com)

The FDIC seems to agree:

The FDIC (Federal Deposit Insurance Corporation), on page 2 of their report, "Challenges and FDIC Efforts Related to Predatory Lending" (Report No. 06-011), dated June 2006, defines predatory lending:

"Predatory lending typically involves imposing unfair and abusive loan terms on borrowers, and statistics show that borrowers lose more than $25 billion annually due to predatory practices.
Predatory lending can be detrimental to consumers and increases the financial and reputation risk for financial institutions. Characteristics potentially associated with predatory lending include, but are not limited to, (1) abusive collection practices, (2) balloon payments with unrealistic repayment terms, (3) equity stripping associated with repeat refinancing and excessive fees, and (4) excessive interest rates that may involve steering a borrower to a higher-cost loan."
* http://www.fdicoig.gov/reports06/06-011.pdf
* ("Challenges and FDIC Efforts Related to Predatory Lending," Report No. 06-011, FDIC, June 2006)
* [Note: The $25B estimate looks low, as it is only about $83.33 per person, in a nation of 300 Million.)

Louisiana State University's AgCenter further gives this definition of 'Predatory Lending':

"Predatory lending is the practice of making loans to consumers who have little ability to repay the loan. It involves the use of deceptive and/or high-cost consumer loans and equity-stripping mortgages. Predatory lenders exploit borrowers by charging extremely high interest and fees. A common element of all predatory loans is exploiting a consumer's ability to repay. Predatory lending includes both:

- Technically legal, but high-cost, loans
- Outright fraud through deceptive sales practices"

*
http://www.lsuagcenter.com/en/family_home/home/design_construction/Getting+Started/Preparing+Financially/What+is+Predatory+Lending.htm
* ("Preparing Financially," LSU AgCenter, © Copyright 2010, brief Fair Use quote)

The FDIC's definition of 'Sub-Prime' lending seems to show this to be a special case of Predatory Lending:

Sub-prime lending is defined as lending to "Subprime borrowers ," who are defined as borrowers who "typically have weakened credit histories that include payment delinquencies, and possibly more severe problems such as charge-offs, judgments, and bankruptcies. They may also display reduced repayment capacity as measured by credit scores, debt-to-income ratios, or other criteria that may encompass borrowers with incomplete credit histories. Subprime loans are loans to borrowers displaying one or more of these characteristics at the time of origination or purchase."
* http://www.fdic.gov/news/news/press/2001/pr0901a.html
* ("Subject: Subprime Lending," Press Releases, FDIC, communications@fdic.gov, Last Updated 01/31/2001)

HUD agrees with the aforementioned:

"Typically, subprime loans are for persons with blemished or limited credit histories. The loans carry a higher rate of interest than prime loans to compensate for increased credit risk."
* http://portal.hud.gov/hudportal/HUD?src=/program_offices/fair_housing_equal_opp/lending/subprime
* ("Subprime Lending," U.S. Dept of Housing and Urban Development, Saturday, 17 November 2012)

They support this definition offered by Investopedia:

"Definition of 'Subprime Loan' [line-break] A type of loan that is offered at a rate above prime to individuals who do not qualify for prime rate loans. Quite often, subprime borrowers are often turned away from traditional lenders because of their low credit ratings or other factors that suggest that they have a reasonable chance of defaulting on the debt repayment."
* http://www.investopedia.com/terms/s/subprimeloan.asp#axzz2CSkl8JGx
- ("Subprime Loan," INVESTOPEDIA, © 2012, Investopedia US, A Division of ValueClick, Inc., brief Fair Use quote)

The Courts agree with this definition:

"As the subprime home mortgage industry has grown over the last decade, increasing attention has focused on predatory lending abuses — [sic] the practice of making loans containing interest rates, fees or closing costs that are higher than they should be in light of the borrower's credit and net income, or containing other exploitative terms that the borrower does not comprehend.1 See Debra Pogrund Stark, Unmasking the Predatory Loan in Sheep's Clothing: A Legislative Proposal, 21 Harv. BlackLetter L.J. 129, 130 (2005) (noting the "unresolved and heated debate between consumer advocates and lenders over how to curb the activities of predatory mortgage brokers and lenders without adversely affecting the robust legitimate sub-prime market")." [The 'sic' comment in brackets, above, indicates a typographical error in the original, but copied faithfully in the instant citation.]
* http://law.justia.com/cases/federal/appellate-courts/F3/471/977/512634/
(In Re First Alliance Mortgage Company, et al. v. Lehman Commercial Paper, Inc., et al., 471 F.3d 977, U.S. Ct. App., 9th Cir., December 8, 2006)

CASE LAW agrees—adding that monetary sanctions for this tort are appropriate:

"Thereafter and in accordance with Laws of 2008, chapter 472, § 3-a, and in view of the fact that the loan at issue was deemed to be "subprime" or "high-cost" in nature, defendant seasonably requested that the court convene a settlement conference....The court found IndyMac's position to be deeply troubling, especially since a plethora of subprime loans in this county's Foreclosure Conference Part have been successfully modified...In short, each and every proposal by defendant, no matter how reasonable, was soundly rebuffed by plaintiff. Viewed objectively, it is apparent that plaintiff's conduct in this matter falls within the definitions set forth in 22 NYCRR 130-1.1 (c) (2), which might well warrant the imposition of monetary sanctions."
http://www.leagle.com/xmlResult.aspx?xmldoc=In%20NYCO%2020091207180.xml&docbase=CSLWAR3-2007-CURR
(Indymac bank f.s.b. v. Diana Yano-Horoski et al., 26 Misc.3d 717, 890 N.Y.S.2d 313, 2009 NY Slip Op 29491, No. 2005-17926, Supreme Court, Suffolk County, N.Y., Decided November 19, 2009)

The courts have also found Predatory Lending not to be restricted to merely sub-prime housing mortgages:

"Plaintiff asserts that none of the paragraphs of the predatory lending statute are applicable to him because he is not a "lender" and the statute was "enacted specifically for banking{**30 Misc 3d at 403} institutions and/or mortgage bankers or brokers." Plaintiff, however, offers no support for this proposition. On the other hand, the Banking Law is, in general, "applicable to all corporations, partnerships and individuals . . . and to such other corporations, unincorporated associations, partnerships and individuals as shall subject themselves to special provisions thereof, or who shall, by violating any of [*4]its provisions, become subject to the penalties provided therein" (Banking Law § 1). Thus, the language of the statute is unequivocal and the court cannot apply rules of construction in order to narrow its application (Insurance Co. of N. Am. v ABB Power Generation, 91 NY2d 180, 186 [1997]; Bender v Jamaica Hosp., 40 NY2d 560, 562 [1976])."
* http://law.justia.com/cases/new-york/other-courts/2010/2010-20469.html
(Balsam v Fioriglio, 30 Misc 3d 400, 2010 NY Slip Op 20469, Supreme Court, Kings County, N.Y., November 22, 2010)

As well, courts frown upon not only Sub-Prime Lending, but also Predatory Lending, and agree tort fees are in order:

"This court has denied the plaintiff bank's summary judgment motion in a mortgage foreclosure action because it has found that the original lender has violated the "predatory lending" statutes found in Banking Law § 6-l. As a result of the findings of violations of the predatory lending sections of the Banking Law this court grants the defendant homeowner summary judgment wherein he may be entitled to damages to include the voiding of the mortgage and loan, along with the return of all mortgage payments, the expenses of obtaining the loans and attorney fees."
* http://law.justia.com/cases/new-york/other-courts/2008/2008-28032.html
(LaSalle Bank, N.A. v Shearon, 19 Misc 3d 433, 2008 NY Slip Op 28032, Supreme Court, Richmond County, N.Y., January 28, 2008)

Federal Courts agree with State Courts both regarding its illegality and regarding tort damages:

"Michael Lance Persac, a mortgage broker, pleaded guilty of conspiring with others to commit wire and mail fraud to facilitate the approval and issuance of residential mortgage loans to possibly unqualified borrowers. The district court sentenced Persac to a 30-month term of imprisonment and to a three-year period of supervised release...The district court found that, as a result of Persac's fraudulent conduct, the lenders suffered actual losses when borrowers failed to pay their loans as agreed and when the lenders wrote down the principal balances of loans in settlement of civil litigation brought against them by **borrowers complaining of predatory lending practices."** [Emphasis in bold and underline added for clarity; not in original.]
* http://docs.justia.com/cases/federal/appellate-courts/ca5/11-60813/11-60813-2012-10-04.pdf
* Cf: http://www.ca5.uscourts.gov/opinions%5Cunpub%5C11/11-60813.0.wpd.pdf
(U.S.A. v. Michael Lance Persa, No. 11-60813, U.S. Ct. of App., 5th Cir., Filed: October 4, 2012)

ARGUMENTS: The loan instruments utilised for most, if not all, Student Loans, easily fit the definition for both Sub-prime Loans and Predatory Lending, as described inter alia in the instant brief.

CONCLUSION: For this reason, tort damages are in order.

XVI. Direct Violations of Art. 1, §§8—10, U.S. Const. (The Legislative Branch)

STATEMENT OF FACTS:

Count 1: The U.S. Congress has, as described and documented supra, passed laws that, retroactively, changed the punishment, and inflicted a greater punishment, than the law annexed to the crime, when committed, regarding obtaining bankruptcy.

Not paying on one's student loan (a crime) held NO punishment in times past, but existing loans then, retroactively, became unable to be discharged via the standard method, and had to meet a much higher 'Undue Hardship' standard, which effectively made discharge on the previous terms a crime (and thus with greater punishment so annexed).

The change in law also made an action (obtaining bankruptcy under standard, as opposed to 'Undue Hardship' standards) done before the passing of the law, and which was innocent when done (this was indeed innocent), criminal; and punishes such action: One would certainly get punished if he obtained such a bankruptcy, as it conflicts with current law on that subject matter.

Count 2: Congress passed laws not permitted in Art. 1, §8, U.S. Const.

Count 3: Congress passed laws non-uniform laws on the subject of Bankruptcies throughout the United States: This is incontrovertible and known fact.

STANDARD OF LAW: The U.S. Constitution, in Art. 1, §§8—9 (The Legislative Branch), says, in relevant part, the following:

Article 1 - The Legislative Branch; Section 8 - Powers of Congress

"The Congress shall have Power...To establish...uniform Laws on the subject of Bankruptcies throughout the United States."

Article 1 - The Legislative Branch; Section 9 - Limits on Congress

"No Bill of Attainder or ex post facto Law shall be passed."

The official U.S. Constitution website gives this definition of an "ex post facto" law:

"Ex post facto
ex post facto *adj.* Formulated, enacted, or operating retroactively. [Med Lat., from what is done afterwards] *Source: AHD*

In U.S. Constitutional Law, the definition of what is ex post facto is more limited. The first definition of what exactly constitutes an ex post facto law is found in *Calder v Bull* (3 US 386 [1798]), in the opinion of Justice Chase:

1st. Every law that makes an action done before the passing of the law, and which was innocent when

done, criminal; and punishes such action. 2d. Every law that aggravates a crime, or makes it greater than it was, when committed. 3d. Every law that changes the punishment, and inflicts a greater punishment, than the law annexed to the crime, when committed. 4th. Every law that alters the legal rules of evidence, and receives less, or different, testimony, than the law required at the time of the commission of the offense, in order to convict the offender."

* http://www.UsConstitution.net/glossary.html#EXPOST

In fact, the states are not even allowed to pass "Ex post facto" laws:

"No State shall...pass any Bill of Attainder, **ex post facto Law,** or Law impairing the Obligation of Contracts, or grant any Title of Nobility."
(U.S. Const., Art. I, §10, Clause 1; Emphasis added in bold-underline; not in original)

ARGUMENTS:

Count 1a:
The U.S. Congress has, in passing laws that, retroactively, changed the punishment, and inflicted a greater punishment, than the law annexed to the crime regarding obtaining bankruptcy (e.g., not paying on one's student loan, a crime), which held NO punishment in times past (with but existing loans then, retroactively, becoming unable to be discharged via the standard method), and thus having to meet a much higher 'Undue Hardship' standard (which effectively made discharge on the previous terms a crime and thus with greater punishment so annexed), violated Art. I, §9, U.S. of the U.S. Constitution.

Count 1b:
The change in law also making this action (obtaining bankruptcy under standard, as opposed to 'Undue Hardship' standards) done before the passing of the law (and which was innocent when done), criminal, and punishing said action, also violates Art. I, §9, U.S. of the U.S. Constitution.

Count 2:
Art. 1, §8 of the U.S. Constitution makes no provision for the Congress to use money collected from the public funds (taxes) available for either the making or guaranteeing of student loans: Congress has over-stepped its powers here.

The nation's founders were surely aware that excess interference in the Free Market by creation of this type of loan would certainly **not only** bid up anything that it subsidises (in this case, tuition, the "costs of college," in a similar fashion as housing prices shot up when loans were forced upon them in the infamous 2010 Housing Bubble fiasco) but also probably end up costing taxpayer, unconstitutionally and unnecessarily—the taxpayer who both makes and guarantees said loans, ***remember?***

That is precisely why they did not give or grant Congress such powers.

Count 3:
Art. 1, §8 of the U.S. Constitution, when granting powers to Lawmakers, specifically only allows the power to create "**uniform** Laws on the subject of Bankruptcies throughout the United States." (Emphasis added in bold-faced underline for clarity; not in original.) The laws governing Student Loans are **clearly** not "uniform." (Obiter Dictum: This disparity is also a violation of Equal Protection, a

special case of this standard, but this distinction, here, is legally moot, as it matters not one whit whether or not there actually is an Equal Protection violation: Since this act is prohibited by the plain and clear language of the constitution on the legal point of bankruptcies, it is all-the-same an Unconstitutional "overstep" of authority on the part of Federal Lawmakers.)

CONCLUSION: For this reason, tort damages are in order in the present, and these laws should, as a matter of Constitutional Law, be changed in the future, at the earliest possible opportunity.

SUMMARY CONCLUSIONS: "Obiter Dictum"

Based on the available data, a number of recommendations to address rising tuition have been advanced by both experts and consumer and students' rights advocates.

NOTE: Most of these requests are "Obiter Dictum" for interested readers who wish to better our society. However, formal prayers, petitions, and requests of this court follow:

** Colleges and universities should look for ways to reduce costs of instructor and administrator expenditures (e.g., cut salaries and/or reduce staff).
** State and Federal governments should increase appropriations, grants, and contracts to colleges and universities, but only if said grants are conditionally tied to keeping the rate of tuition affordable.
** Federal, state, and local governments should reduce the regulatory burden on colleges and universities.

** The Federal Government should enact partial or total loan forgiveness for students who have taken out student loans, since the principle (not even including interest and fees or predatory lending and other fraud) was vastly inflated. Since both Student Loan debt and tuition are skyrocketing (as well as sharp increase in recent Student loan defaults), all this burdensome debts on students prevents them from contributing to the economy, and the load should be lightened. Since the the lack of all standard consumer protections (particularly bankruptcy) leaves the student borrower defenseless against predatory lending, there is no incentive for the colleges to lower tuition (or the lenders to lower interest or late fees), thus leading to rising "tuition inflation." (As "tuition inflation" is a component of "overall inflation," it is quite obvious that overall inflation increases as well, due to removal of and lack of Standard Consumer Protections, particularly the easy availability Bankruptcy, which Credit Card users currently enjoy.) One corollary of this is the following: **Since forgiveness does not require the printing of new dollars (i.e., "too much money chasing too few goods"), it is not inflationary.**
** Federal Lawmakers should return standard consumer protections (truth in lending, bankruptcy proceedings, statutes of limitations, etc.) to Student Loans which were removed by the passage of the Bankruptcy Reform Act of 1994 (P.L. 103-394, enacted October 22, 1994), which amended the FFELP (Federal Family Education Loan Program).
** Cut lender subsidies, decrease student reliance on loans to pay for college, and otherwise reduce the 'loan limits' to limit the amount a student may borrow.
** Regulatory or legislative action to lower or freeze the tuition, such as Canada's tuition freeze model, should be enacted by federal lawmakers.
** Other countries, such as Germany, have colleges that charge a student based on what they earn after they graduate, either via a voluntary contractual agreement known as a 'Tuition Contract' or by involuntary regulation of fees by the government. This method offers an incentive to colleges and universities, to provide a quality education, sufficient to enable their students to get a decent job.

"The level of the fees [in the Hanseatic City State of Hamburg, Germany] was lowered to EUR375 and payment was only due after graduating, and only if graduates were earning a pre-tax annual salary in excess of EUR30,000 (US$41,000)."
* http://www.universityworldnews.com/article.php?story=20110923212949476
("GERMANY: Hamburg to scrap tuition fees," by Michael Gardner, UniversityWorldNews.com, 25 September 2011, Issue No:190)

** In order to offset the costs of tuition, some colleges help students in job searches and job placement after graduation.

** More research should also be done.

Nationally-recognised financial expert, Mark Kantrowitz, in his report ("Research Report Research Report: Causes of faster-than-inflation increases in college tuition" by Mark Kantrowitz, Publisher, FinAid, 10 October 2002, http://www.finaid.org/calculators/tuitionanalysis.pdf), issued the following 2 additional recommendations:

#1 – "The National Center for Education Statistics should increase the frequency of the National Postsecondary Student Aid Study to annual, from triennial, in order to permit more timely tracking of the factors affecting tuition rate increases. Likewise, NCES (National Center for Education Statistics) should take steps to improve the efficiency of the data collection and publication for the Digest of Education Statistics, so that all tables will include more recent data. The most recent data listed in some tables is five years old."

#2 – "The US Department of Education should study the relationship between increases in average EFC (Expected Family Contribution) figures and average tuition rates. In addition, it would be worthwhile to examine how historical average EFC figures have changed relative to family income when measured on a current and constant dollar basis for each income quartile."

SUMMARY CONCLUSIONS: **Formal requests, prayers, and petitions to This Court:**

Petition #1 – This court is asked to find unconstitutional such laws as deprive certain borrowers of 'Student Loans' the 'Standard Consumer Protections' of "Truth in Lending," as a violation of Constitutionally-protected Due Process, specifically a violation of the "Void for Vagueness" standard.

Petition #2 – This court is asked to find unconstitutional such laws as deprive certain borrowers of 'Student Loans' the 'Standard Consumer Protections' as a violation of the Constitutionally-protected Equal Protection.

Petition #3 – This court is asked to hold that borrowers of certain Student Loans made by private lenders were the victim of Tortious Interference when the Federal Government changed the terms of the Loan Instrument after the fact – by removal of ALL Standard Consumer Protections – whether or not notice was given.

Petition #4 – This court is asked to hold that borrowers of certain Student Loans made by the Federal Government were the victim of Breach of Contract when the Federal Government changed the terms of the Loan Instrument after the fact – by removal of ALL Standard Consumer Protections – whether or not notice was given.

Petition #5 – This court is asked to review the other claims of violation of various laws so described and alleged in the instant brief – including, but not limited to Unconscionability, Sub-Prime, and Predatory Lending, Illegal Monopolies, Cruel and Unusual Punishment, Illegal Price-Gouging, and other fraud – and, if such is found, to remedy the victims in an equitable manner.

Petition #6 – Consider criminal charges against lenders, bankers, Higher Ed officials, colleges, and universities, as have been done in similar cases:

"Willie McAteer is set to become the first banker prosecuted over the collapse of the toxic Anglo Irish Bank in 2008-2009. [line-break] McAteer, an executive in the former rogue lender, is due in court in Ireland on fraud charges."
http://www.belfasttelegraph.co.uk/news/local-national/republic-of-ireland/irish-banker-mcateer-arrested-by-anglo-probe-fraud-squad-officers-16188534.html
("Irish banker McAteer arrested by Anglo probe fraud squad officers," Belfast Telegraph, July 23, 2012)
Cf: http://www.irishcentral.com/news/Former-Anglo-Irish-banking-chiefs-arrested-163744256.html
"Former Anglo Irish banking chiefs arrested: Three of Ireland's top bankers charged with criminal offenses," By PADDY CLANCY, Irish Voice Reporter, July 26, 2012)
Cf: "NEW YORK (AP) - A former hedge fund portfolio manager was arrested Tuesday in what prosecutors are calling perhaps the most lucrative insider trading scheme of all time..."
*** http://www.pressdemocrat.com/article/20121120/APF/1211200969**
("Business Highlights," By The Associated Press, as reported in the Press Democrat of Santa Rosa, CA)

>> The most important petition:

Petition #7 – This court is asked to carefully take note of the fact that <u>each</u> alleged tort (so enumerated in the Table of Contents), if true, is <u>in and of itself</u> <u>uniquely</u> sufficient legal cause to justify remedy; and, therefore conclude that <u>the combination</u> of the alleged torts, if true, signifies and documents a "pattern of behaviour," such that the sum (of the tort-related damages) is greater than the individual parts, due to the additional, albeit intangible, pain and suffering associated with the sum of the oppressive weights added to the necks and yokes of the alleged victims described herein. (In plain English: Each and every individual tort is sufficient legal cause to justify remedy.)

Petitioner, now, hereby petitions This Court for remedy addressing ALL enumerated torts within the "four corners" of this brief, whether any other part of the instant brief makes such a petition or not—including (but not limited to) the following:

- **Habeas Corpus relief for the oppressions so described: Case Law is quite clear that Habeas relief is available in a wide variety of dire circumstances, including the following.**
- **A writ of Quo Warranto should issue, asking "by what right" the illegal actions are done.**
- **This Court should issue a writ of Prohibition against all illegal acts, in the aid of executing its duties of justice.**
- **Lastly, in the aid of justice, This Court should issue a writ of Mandamus in cases where the ministerial duty to perform certain required acts is not done.**

APPENDIX—A: An Op-Ed submission to The Register from recognised Student Rights advocate, Alan Collinge, who also has 3 degrees in Aerospace Engineering (plus 2 minors in Industrial Systems Engineering, and Philosophy) from the University of Southern California. This makes Mr. Collinge a legitimate and genuine "Rocket Scientist," and thus intelligent enough to sort through these issues:

"Why College Prices Keep Rising"
By Alan Michael Collinge, Special to The Register | September 16, 2012

"For many years, it has been unknown to the general public that all of the major elements comprising the student lending system (i.e. lenders, collection companies, guarantors) made far more money when students defaulted on their loans. Nevertheless, this is a fact, and it is well documented. It is most disturbing, however, that recent analysis of the President's Budget data reveals that even the US Department of Education, on average, recovers $1.22 for every dollar paid out in default claims. Assuming generous collection costs, and even allowing for a nominal time value of money of a few percent (the governments cost of money is very low), it still appears that the federal government, even, is making a pretty penny from defaults.

How could this be possible? The primary reason for this is that unlike all other types of debt, bankruptcy protections, statutes of limitations, and other standard consumer protections have been removed from federal student loans, and draconian collection powers have been given to collect on hugely inflated, defaulted student loan debt.

The systemic consequences of these types of financial motivations are too numerous to describe here, but one very significant result is that during the legislative process, when the schools, lenders, and their lobbyists pressure Congress to raise the allowable loan limits, the Department of Education-one of the only entities available to act in the interest of the students and call for a freezing (or even a reduction in the lending limits)- has repeatedly failed to tell it like it is regarding defaults. The schools and lenders point and brag about the low "cohort" default rates, but this metric (which hit a low of about 4% in 2005) masks the true default rate, which we now know was likely 25% or higher for years, and today is likely significantly higher than that.

Instead of voicing concern, or even objections to Congress in the lending limit debates, the Department of Education remained largely silent, despite their knowledge about the true default rate for years, and in fact, press releases about the default rate spanning years from the Department of Education speak exclusively of the cohort rate, and this continues to this day, by and large, although media have shed some light on the true default rate in recent years.

This, again, is a key failure in oversight that effectively causes Congress to make decisions without the interests of the borrowers being represented (Of course the lenders and schools claim to have the interests of the students at heart, but their obvious financial motivations discount their credibility on this claim). Therefore, Congress continues to rubber-stamp these legislative efforts, and the schools quickly raise their tuition to bump up against the new lending ceilings.

If the Department of Education were seeing a material, financial loss with loan defaults, they likely would be far more assertive about the reasons NOT to raise the loan limits…and this would provide a critical check on the process. But the Department has been largely absent from these debates, and its misaligned interest is certainly the reason why.

So it must be agreed that lack of Department oversight contributes directly to repeated votes by Congress to raise the loan limits, and we've already established the link between this poor oversight, and the removal of consumer protections. So undoubtedly, the removal of standard consumer protections has effectively allowed the schools and lenders to have their way with Congress on this issue.

Critics could argue that the established student advocacy groups should have stepped in to fill this role… and this is obviously true…but the advocates can claim that they did not know that defaults were as high as they were (recent evidence suggests that the true default rate exceeds 1 in 3), therefore any objections from them (assuming they did object) were not strong. Had they known that defaults were as high as they were, one can only assume that they would have objected far more forcefully, starting many years ago.

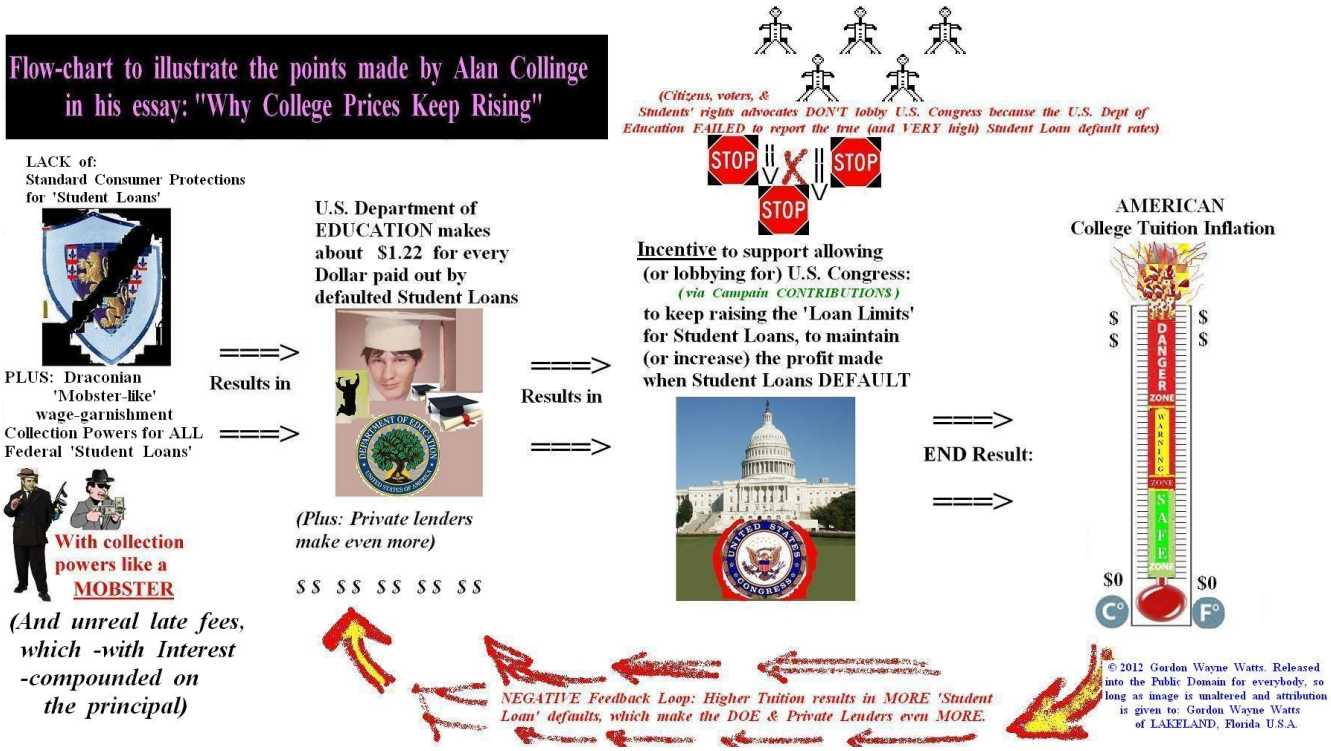
The current debate surrounding the cause of tuition inflation is a confusing mix of rhetoric that typically involves fingers pointing in all directions…"like a scarecrow in the wind" …among lenders, schools, the Department of Education, the student advocates, and Congress. But of these five entities, four were behaving as expected (i.e. schools pushing for raising the limits, advocates wringing their hands in the absence of defensible proof that things were going awry, lenders playing their part as the selfish, amoral entities they are understood to be, Congress debating what they are told, and ultimately voting based upon this debate).

The Department of Education, however, failed to fulfill its role, and did not disclose to the group the true magnitude of the default problem, as one would expect it to. Therefore the Department is clearly the party whose behavior can ultimately be questioned with strong justification. Of course citizens have every right to be seethingly resentful and angered by all of these actors failing to point out what was obvious…that the students were being saddled with outrageous increases in student loan debt (I believe the advocates bear a tremendous amount of responsibility, for example), but strictly speaking, the Department's failure is the only one with zero defense.

This is a critical, unambiguous link that is never pointed out, but which is key- the key- to explaining the rampant inflation we have seen in academia over the years. Congress and the president should be demanding to know why key personnel at the Department so badly neglected to fulfill their duties, and take a hard, hard look at the corporate culture that has enabled this sort of gross neglect of basic functions. And of course, the standard consumer protections that should have never been removed from student loans must be returned at the earliest possible opportunity."

The Register has provided the following handy little graphic 'flow-chart' explanation of the predatory lending system, as described in Alan's op-ed, above—and cross-posted on 4 mirrors –and pasted below, as an embedded image in this document:

* http://GordonWatts.com/images/AlanCollingeTuitionChart.jpg
* http://GordonWayneWatts.com/images/AlanCollingeTuitionChart.jpg
* http://ThirstForJustice.net/images/AlanCollingeTuitionChart.jpg
* http://Gordon_Watts.Tripod.com/images/AlanCollingeTuitionChart.jpg



APPENDIX—B: An Op-Ed column appearing in The Register:

[citations omitted for brevity]

"Higher-Ed Tuition Costs: The 'Conservative' view is not on either extreme: *Students are told from an early age that an education is the only way to success, and yet when they follow the inevitable path, they are lured into a trap -a debt-trap."*
By Gordon Wayne Watts, Editor-in-Chief, The Register | Monday, September 28, 2009
Last Modified: Thursday, 22 November 2012

"Position Paper -- A well-documented study into the U.S. Higher Ed crisis: Causes of skyrocketing tuition and declining quality of institutions of Higher Education in America -- Proposed solutions

We think of conservatives as right extremes & liberals as left, polar opposites. However, true conservatives are in the middle (on this matter anyhow), liberals on the extremes. First, the history:

In the 1956-57 school year, one source reports a year of college cost $138, and another source is in close agreement. But remember we have to adjust for inflation: The $138 figure is about $1,062.71 in 2008 dollars, probably the same for 2009, considering the year's inflation was about 0.1%. However, nowadays, the same year of college costs about $10,066, about a 10X increase. Other sources indicate a cost of $6,142.58 for tuition and $6,920.94 for housing, for a total of $13,063.52 per year, even higher than the $10,066 fig.

Drug users and the criminally insane can take out a line of credit, and run up tons of debt and (although it's hard) still declare bankruptcy. However, student loans are unique among all loans in the lack of

standard consumer protections (truth in lending; bankruptcy proceedings; statutes of limits; the right to refinance; adherence to usury laws; and, Fair Debt & Collection practices, etc.) afforded the borrower. (If institutions of Higher-Ed knew that students could declare bankruptcy, they would be more apt to charge a fair, free-market value for their product -instead of monopoly-style collusion to keep both tuition principle as well as interest rates high -with garnishment and collection and powers that a mobster would envy.)

The fact that this has driven many students to suicide is not without merit: You used to never hear of student loan suicides -this has only now become a crisis in Higher-Ed recently. (Their blood should count for something.) OK, that's the problem: Skyrocketing Tuition & 'Tuition Bankruptcies,' like 'Medical' & 'Housing Bankruptcies.' If Education is the BACKBONE of America, we have a BROKEN BACK. However, have you considered why this has only now occurred? Let's eliminate higher quality as an explanation for the tuition increase. Mainstream media claims education quality has actually decreased; Sean Hannity & I both agree that quality has plummeted, so higher tuition isn't due to better quality.

Any guess why skyrocketing tuition increases have only NOW become a problem? Yes. Since government keeps bailing out Higher-Ed with our tax dollars for grants & loans to students and funding of colleges & universities, these institutions have guaranteed income, thus no incentive to lower prices to Free Market supply & demand values. Put another way, they could care less if you go bankrupt & screw-up your life trying to pay off your debt: They've already gotten bailed out in advance. Picture this: Let's say every restaurant & supermarket is subsidized by Big Brother using tax dollars: Would they be hurt if they charged say $100 for a Big Mac, eventually bankrupting you? No. This isn't the first time the concept of either expensive food or over-taxation has surfaced. Same with Higher-Ed, the Housing Market, and Social Security. Because of inefficiency & graft, both Hannity & I also agree that tax dollars don't need to keep going to Higher-Ed: Let them stand or fall on their own merit -free market style.

It seems that every time Congress raises the loan limits for Student Loans, and students can afford more (read: go deeper in debt), colleges mysteriously find new excuses to raise the tuition. "Things that make you go 'hmm...'."

Here's where I break ranks with Sean: He feels no matter what government throws at us, we can somehow pay off bills if we work hard from 6am-midnight. NOT. *Here's where liberal extremes come in:*

*** On one extreme:** You have people asking for free handouts. They don't want to pay for ANY education: Let the government do it all: That's how Sean classed me in his recent show.

*** On the other extreme:** You have today's students paying MORE than their fair share, FAR more than peers of yesteryear, for an education whose quality has actually gone DOWN, not up. Since most colleges & universities are state-owned & state-funded and practically ALL institutions of higher ed, even private colleges, receive funding from tax dollars through grants & loans (not to mention being tightly regulated by government as well), they're a de facto ARM of government. Thus funding influx (e.g., tuition) is effectively a tax by the very definition. And if you have someone like Hannity defending extortion of students by a tax which has already increased 10X, you're effectively supporting tax increase. **This extreme is also "Blue-State"-liberal.**

Therefore, having each student owe only the actual value of his/her education would be the conservative thing to do because it falls under moral rights & wrongs as a right thing. Jesus even asked followers that if someone wanted you to go 1 mile to go 2 (e.g., 'double'). So there's a good case to be made that paying 'DOUBLE' (that is, 200%) is also OK since many fiscal conservatives are also religious conservatives thus in alignment with Jesus' creed. Society has finally gotten rid of the scourge of slavery -or have we? Now they've found a way to snare a whole new group: "Debt Slaves" of all races, creeds, and genders -who they would put in bondage for life under crushing debt. So, immediate forgiveness of the debt of those overcharged would be the only way to right the wrongs and then reset the debt owed to 100%-200% of actual costs. For those who've already somehow paid back their debt, this is stickier. Either these students would have to forgive the government or they might get free education for family members, but to outright refund them cash, even if morally justified, might have an extreme inflationary effect as the number of dollars in circulation increases. Besides being the morally "right" thing to do, when these debt slaves are freed, they will be able to spend more money on basic necessities -thus stimulate the economy; the only ones who would suffer are the banks and lenders -who profit off of others' financial ruin. Colleges made do in the past & they'd make do now to learn to live within their means, stop paying exorbitant salaries, funding stupid building projects, unnecessary clubs & activities. We've done it before -we must do it again: **"Red-State"-Conservatives must once again save the future**. ***(PS: If you're a liberal reading this, you should realize that this affects you too and that we must put aside pride and work together, lest 'divided we fall' -under the weight of crushing and enslaving debt.)***

Furthermore, in the absence of fundamental consumer protections (truth in lending; bankruptcy proceedings; statutes of limits; the right to refinance; adherence to usury laws; and, Fair Debt & Collection practices, etc.), the government and lenders (banks) make more money in interest and particularly, in fees, if the student defaults on the loan, so there is a greater financial incentive/motive for the government & banks to NOT help the student avoid default.

Therefore, seeing the crisis as outlined in this research paper, I would call upon Federal Lawmakers to pass legislation to:
-A- Prevent any more tax dollars from going to Higher-Ed (be they grants*(*)* or loans –State or Federal tax dollars)
*(*) NOTE: Gordon Wayne Watts, the author of this Position Paper, has reconsidered his view of elimination of grant monies, funded by taxpayer dollars, and now would support *limited* grant monies to offset the very large loss if Federal Law prohibited the government from making or guaranteeing loans. Liberals are partly right on this point: The money to run institutions of Higher Education must come from somewhere. However, the use of *any* grant monies must be conditioned upon the frugal use of said tax dollars, which, in plain English, to conservatives like Mr. Watts, means that these institutions can not use monopoly-style collusion and, in the case of State Colleges, can not impose an excessive tax (tuition is a form of tax, as it flows to an arm of the government, State Colleges), *and* must exercise personal responsibility and must neither spend lavishly, nor succumb to the pressures to distort the market, by charging an artificially inflated high tuition, should grant and/or loan monies become available. Only then, if responsible spending practices were adhered to would Mr. Watts be OK with use*

of taxpayer-funded grants to replace or offset losses if and when loans are discontinued or sharply curtailed.

-- As in housing, this influx has distorted the market, resulting in higher tuition. Taxpayers get raped twice by bailing-out Higher-Ed:

-1- Once because it inflates tuition by enabling colleges' 'addiction' to tax-dollars.

-2- Secondly, this 'addiction' is enabled by your tax dollars -it costs you.

-B- Grant immediate forgiveness to all unpaid student loans -and reset the debt to require students to owe only the free-market value of their education (or, up to perhaps twice the Free Market value –but no more), not the exorbitant prices they were price-gouged through the monopoly-style collusion of the institutions of Higher-Ed & lenders/banks with the Federal Government.

-C- Although government regulation of tuition (e.g., a "Tuition Freeze") would normally be "Big Government Interference," and thus liberal, there is precedent that "Utility Ratemaking" would be appropriate to control (by regulation) the costs of tuition, as is done with other industries classified as public utilities. Higher Education, legally, and by the definition, constitutes a public utility since such businesses constitute a de facto monopoly for the services they provide within a particular jurisdiction. Since a monopoly exists when a specific person or enterprise is the only supplier of a particular commodity, it can be argued that colleges are an enterprise, or group of businesses that have sole access to a market of higher education, as they are the only supplier of a college degree, and are thus comparable to the monopoly of a group electric companies, who are the sole supplier of electricity, and thus subject to government regulation of rates. While this approach is used successfully in many other industries where a monopoly would otherwise threaten the consumer, it is "liberal," and can not work in isolation, and thus, the other solutions outlined in this essay must also be employed in order to save the quickly-sinking Higher Education industry in The United States.

-D- Other countries, such as Germany, have colleges that charge a student based on what they earn after they graduate, either via a voluntary contractual agreement known as a 'Tuition Contract' or by involuntary regulation of fees by the government. This method offers an incentive to colleges and universities, to provide a quality education, sufficient to enable their students to get a decent job.

-E- [{(SAVING THE BEST FOR LAST)}] However, since most Lawmakers are cowards, and don't have the 'guts' to do A, B, C, or D, then here's an alternative: Return that standard consumer protections to Student Loans (truth in lending; bankruptcy proceedings; statutes of limits; the right to refinance; adherence to usury laws; and, Fair Debt & Collection practices, etc.) -that were recently removed. WHY? Because, if Colleges/Universities knew that students could declare bankruptcy, they'd be more apt to charge a fair, free-market value for their product -instead of continued indentured servitude slavery debt for life -and, of course, this would afford life-saving relief to ALL students, past, present, and future –and set free a whole new generation of slaves: Debt Slaves.

If these five requirements were made Federal Law, then institutions of Higher-Ed, like Wal-Marts, MacDonald's, and K-Marts, could experience the free market pressures to offer a higher quality -not a propped up house of cards -which has been the source of the problems thus far. (And, yes: Just like the 'Housing' bubble burst, the 'Education' and 'Healthcare' bubbles will burst too if major changes are not made -and the economy *will* crash.) These universities & banks know students must go to college to even have a 'chance' at a job in this economy, so big banks & liberal colleges have a 'captive audience': Their targeting of students is like 'shooting fish in a barrel': These students don't stand a chance when tuition rates are obscenely exorbitant. **Students are told from their youth that they need an education to compete in today's world; let's not punish them for doing what is right.**

However, any Congressman/Congresswoman or Senator unwilling to pass these basic consumer

protections for Student Loans is suspect for influence from huge campaign contributions by banks and bankers, unwilling to give up the 'mobster-like' protection from a student's ability to declare bankruptcy. Just remember one thing: "Follow the money."

Gordon Wayne Watts received a Bachelor's degree from The Florida State University with a double major in Biological and Chemical Sciences with honors and was the valedictorian from United Electronics Institute. Watts, a non-lawyer, is best known for his lawsuit on behalf of Terri Schiavo, which lost 4-3 in the Florida Supreme Court, arguably doing better than even then Governor Jeb Bush's similar suit (lost: 7-0) or Terri Schiavo's own family's federal case (lost: 2-1). Mr. Watts, who ran unsuccessfully for Dist. 64 Fla. House of Representatives, is a part-time political activist while he searches for a full-time job in his field."

Selected pictorial from op-ed above:
"Higher-Ed Tuition Costs: The 'Conservative' view is not on either extreme"
By Gordon Wayne Watts, *The Register*

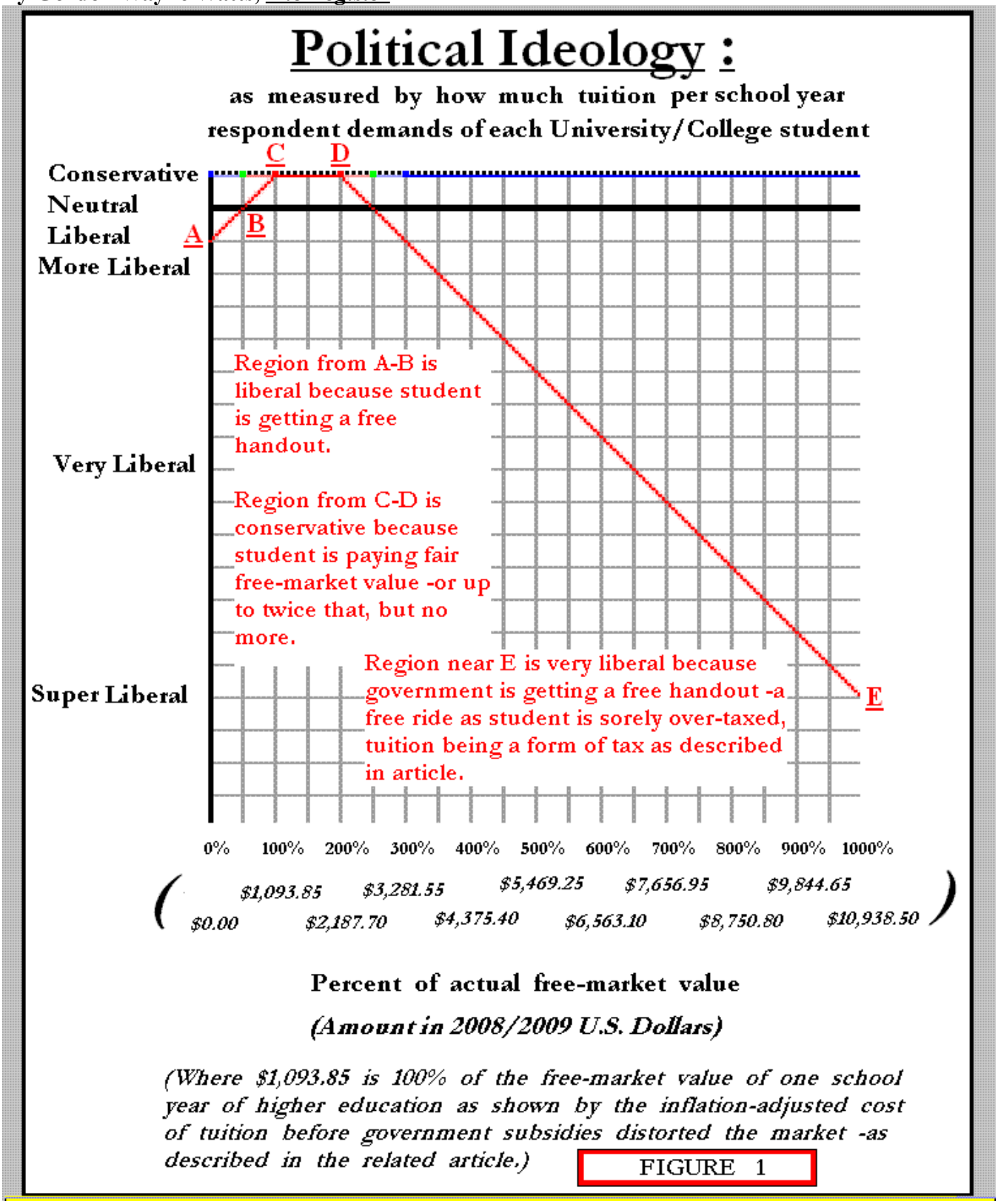
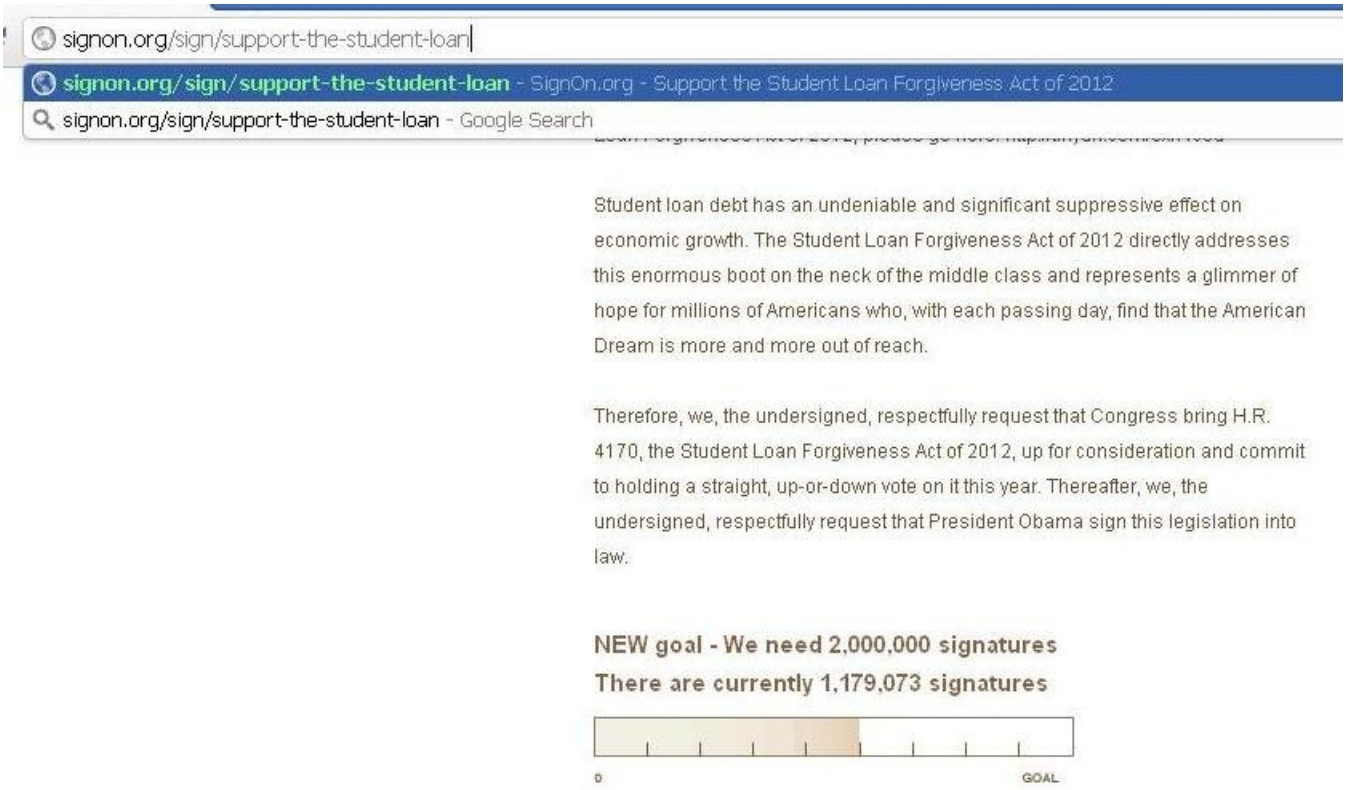
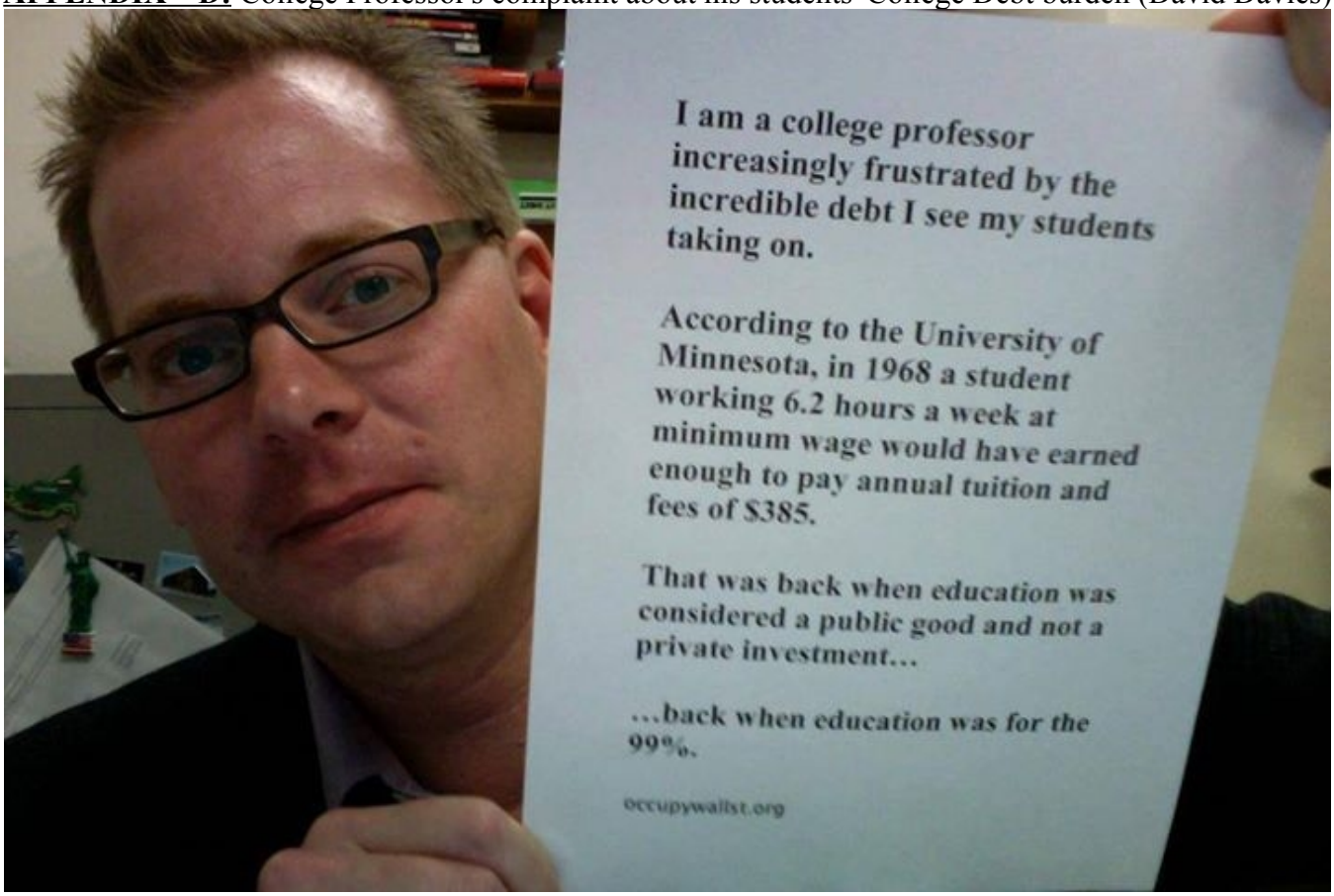


FIGURE 1

APPENDIX—C: Screen-Shot of HR 4170, 2012 "Million Signature" petition (by Robert Applebaum)



APPENDIX—D: College Professor's complaint about his students' College Debt burden (David Davies)



This photo of a college professor, which has been circulating the Internet, says the following:

"I am a college professor increasingly frustrated by the incredible debt I see my students taking on.

According to the University of Minnesota, in 1968 a student working 6.2 hours a week at minimum wage would have earned enough to pay annual tuition and fees of $385.

That was back when education was considered a public good and not a private investment…

…back when education was for the 99%."

The professor depicted above is David Davies, associate professor of anthropology at Hamline University in St. Paul, Minnesota, and his claim is verified as true and correct, according to the Star Tribune of Minnesota, which reports the following: "In 1968-69, a student could have clocked 6.2 hours a week at minimum wage to earn enough to cover annual tuition and fees of $385, according to the U. This year, a student would have to work 33.9 hours a week at minimum wage to cover tuition and fees."
Source: http://www.StarTribune.com/business/43647732.html?page=5&c=y
see also: http://m.StarTribune.com/local/?id=132317538
and: http://www.SociologyForNerds.com/2012/03/interview-with-david-davies-professor.html

Both liberals and conservatives are at fault for this mess:

Liberals made loans easily available to anyone who had a pulse, and, like in the infamous Housing bubble of 2010, sellers jacked up prices REAL HIGH because they knew buyers had "easy loans" available. Result: A bubble, and resultant higher prices (distorting the free market, in techie terms)

Then so-called conservatives under Bush removed the bankruptcy safety net. At least the housing buyers could file bankruptcy, and this at least slowed the bubble of price-gouging. However, students, without even the most basic protections that rich Wall Street Bankers have (bankers can file bankruptcy for HUGE SUM$!), are preyed upon even more.

Result: Even worse bubble.

None of us on the conservative side is asking for a 'Free Handout,' but to give huge bankruptcy protections to the rich bankers -even AFTER they've gotten copious liberal 'bailouts' and corporate handouts -and yet, somehow deny poor students the same protections -is patently unfair, and, as I argue here, in the instant brief –in the case at bar.

Although Prof. Davies only harkens back to 1968, in truth, the decline in affordability of a college education is much worse than portrayed above: Back in the 1950's, tuition in American colleges/universities was even more affordable, and this was in spite of the fact that American Higher Education was the best in the world. Thus, the decline in both quality and affordability is even worse in the present cause before the court today.

Therefore, we hope This Honourable Court will give full attention to the case *sub judice*, lest a worse thing come upon our already-beleaguered programme of Higher Education in present-day America.

APPENDIX 'E' – Two Scary Higher-Ed Parables (by Gordon Wayne Watts)

((#1)) The first parable is only "somewhat" scary: We remember that 'Conservatives' *(such as this writer)* cite the 'Second Amendment' as a means of 'self-defense' for American Citizens, *right?*

> "A well regulated militia, being necessary to the security of a free state,
> the right of the people to keep and bear arms, shall not be infringed."
> **~ AMENDMENT II, Constitution of the United States of America**
> *Source:* ***http://www.law.cornell.edu/constitution/second_amendment***

Well, is it not equally true that the ability of College Loan borrowers to file for bankruptcy on the same terms as all other debtors is a "singing sword" of self-defense? Indeed, if the lenders knew that college students could 'defend' themselves against predatory loans, would they not be more apt to charge a fair price for college education? (ANSWER: The answer is obvious – both 'Liberals' and 'Conservatives' are for self-defense. Isn't it ironic that 'Liberals' and 'Conservatives' are so similar in their beliefs when they, themselves, are the victims?)

> **SUMMARY #1: The 'Conservative' views the 2nd Amendment as a 'physical' self-defense, and the 'Liberal' views bankruptcy as an 'economic' self-defense: both rights are Constitutionally-protected (see *supra*) and morally right (under both common law and in God's eyes)**

((#2)) The second parable is "very" scary – Let's look at this famous quote to "set the tone," shall we?

"First, they [Nazis] came for the Jews. I was silent. I was not a Jew. Then they came for the Communists. I was silent. I was not a Communist. Then they came for the trade unionists. I was silent. I was not a trade unionist. Then they came for me. There was no one left to speak for me."(Martin Niemöller, given credit for a quotation in The Harper Religious and Inspirational Quotation Companion, ed. Margaret Pepper(New York: Harper & Row, 1989), 429 -as cited on page 44, note 17,of Religious Cleansing in the American Republic, by Keith A. Fornier, Copyright 1993, by Liberty, Life, and Family Publications. [Obiter Dictum – Some versions have Mr. Niemöller saying: "Then they came for the Catholics, and I didn't speak up, because I was a Protestant"; other versions have him saying that they came for Socialists, Industrialists, schools, the press,and/or the Church; however, it's certain he DID say SOMETHING like this. Actually, they may not have come for the Jews first, as it's more likely they came for the prisoners, mentally handicapped, &other so-called "inferiors" first -as historians tell us-so they could get "practiced up"; however, they did come for them -due to the silence of their neighbors -and due in part to their own silence. So: "Speak up now or forever hold your peace!"]

Here, we have an implicit claim that if you don't help others in need, then 'karma' will come back to bite you (or, as some 'religious' folk might say, "God will get you," or the law of 'sowing & reaping' will ensure a 'bad' harvest). – But, is this true?... Consider this: 'Rich and powerful' business owners obtain an LLC or a 'non-profit' so that they won't be "personally" liable in the event a business fails. So do the board of large, rich churches. [Donald Trump, mentioned supra, was able to discharge huge sums in bankruptcy on four (4) occasions – and thus be 'relieved' of much or all of his debt each time – and so are Credit Card users.] So, will they change laws to prevent you from collecting on an insurance claim, even though that was, indeed, part of the initial contract? *(Hint: If many 'holier than thou' types have told student that "you took out the loan, you pay it back," what, then, is to stop them from telling YOU: "you got into an automobile accident, YOU pay off the claim: your insurance should not have to pay off what you owe.")*

More to the point: will they also change laws to make your 'LLC,' 'house,' or even 'hospital' loans ineligible for bankruptcy? **If they did did it to college students, what makes you think that you won't be next?** In the alternative, if the rich/powerful are afforded bankruptcy discharge for huge sums, why are they denying this to poor college students, burdening these poor students with a burden that these rich/elite, themselves, cannot bear!? Two-faced, double-standard hypocrites. Snakes, as Jesus might call these proud and lofty Pharisees and Lawyers.

SUMMARY #2: Happened to 'them?' – Yes: It CAN (and will) happen to you. (But we just don't know when.)

Church Leaders: We must not fail to keep our word, lest God curse us:

18 The sons of Israel did not strike them because the leaders of the congregation had sworn to them by the Lord the God of Israel. And the whole congregation grumbled against the leaders. 19 But all the leaders said to the whole congregation, "We have sworn to them by the Lord, the God of Israel, and now we cannot touch them. **– Joshua 9:18-19, Holy Bible, NASB**

However, in failing to obey U.S. Constitutional guidelines (for example: violations of Art. 1, §§8—10, U.S. Const., The Legislative Branch), on page 55, in section XVI, *supra,* both the Federal Lawmakers and those of you who voted for them (but did not hold them accountable) bore false witness, in regard to keeping our/their word and were truce breakers and covenant breakers (not keeping their/our word to follow the Constitution – the covenant and contract with America) – and, as directly prohibited by the following:

- "Thou shalt not bear false witness against thy neighbour." [Exodus 20:16 (KJV, Holy Bible)]

- "Neither shalt thou bear false witness against thy neighbour." [Deuteronomy 5:20 (KJV, Holy Bible)]
- "Without understanding, covenantbreakers, without natural affection, implacable, unmerciful:" [Romans 1:31 (KJV, Holy Bible)]
- "Without natural affection, trucebreakers, false accusers, incontinent, fierce, despisers of those that are good," [2 Timothy 3:3 (KJV, Holy Bible)]
- I (author of the instant memorandum, at bar, here) plan to keep my word (to pay back my college loan –if able), but the excessive terms (lack of Bankruptcy protections, etc.) were NOT a part of
- my original Loan Contract, and thus, I am NOT obligated to pay back any fees/interest above and beyond that which were attached to the original Loan Contract. So, I, for my part, in case you're curious, am not intentionally attempting to be a 'Truce Breaker' who fails to keep his word, like the Federal Lawmakers who wrote law that directly violated numerous provisions of the U.S. Constitution.
- And: for other scary stuff that Jesus promises to do to you if you do not heed these words...

The Parable of the Unmerciful Servant [Matthew 18:21-35 (NIV, Holy Bible), words of Jesus in red]

21 Then Peter came to Jesus and asked, "Lord, how many times shall I forgive my brother or sister who sins against me?(A) Up to seven times?"(B)
22 Jesus answered, "I tell you, not seven times, but seventy-seven times.[a](C)
23 "Therefore, the kingdom of heaven is like(D) a king who wanted to settle accounts(E) with his servants. **24** As he began the settlement, a man who owed him ten thousand bags of gold[b] was brought to him. **25** Since he was not able to pay,(F) the master ordered that he and his wife and his children and all that he had be sold(G) to repay the debt.
26 "At this the servant fell on his knees before him.(H) 'Be patient with me,' he begged, 'and I will pay back everything.' **27** The servant's master took pity on him, canceled the debt and let him go.
28 "But when that servant went out, he found one of his fellow servants who owed him a hundred silver coins.[c] He grabbed him and began to choke him. 'Pay back what you owe me!' he demanded.
29 "His fellow servant fell to his knees and begged him, 'Be patient with me, and I will pay it back.'
30 "But he refused. Instead, he went off and had the man thrown into prison until he could pay the debt.
31 When the other servants saw what had happened, they were outraged and went and told their master everything that had happened.
32 "Then the master called the servant in. 'You wicked servant,' he said, 'I canceled all that debt of yours because you begged me to. **33** Shouldn't you have had mercy on your fellow servant just as I had on you?' **34** In anger his master handed him over to the jailers to be tortured, until he should pay back all he owed.
35 "This is how my heavenly Father will treat each of you unless you forgive your brother or sister from your heart."(I)

Footnotes:
[a] Matthew 18:22 Or: *seventy times seven*
[b] Matthew 18:24 Greek: *ten thousand talents;* a talent was worth about 20 years of a day laborer's wages.
[c] Matthew 18:28 Greek: *a hundred denarii;* a denarius was the usual daily wage of a day laborer (see 20:2).

Cross references:
(A) Matthew 18:21 : S Mt 6:14

(B) Matthew 18:21 : Lk 17:4
(C) Matthew 18:22 : Ge 4:24
(D) Matthew 18:23 : S Mt 13:24
(E) Matthew 18:23 : Mt 25:19
(F) Matthew 18:25 : Lk 7:42
(G) Matthew 18:25 : Lev 25:39; 2Ki 4:1; Ne 5:5, 8
(H) Matthew 18:26 : S Mt 8:2
(I) Matthew 18:35 : S Mt 6:14; S Jas 2:13
New International Version (NIV)

Jesus' parable in Matthew 18:21-35, quoted in its entirety above, is comparable to the student loan crisis, since, of course, looking at footnote [b], we see that the amount that this chap was in debt (10,000 talents, each talent being about 20 years' worth of a day laborer's wages) was impossible to pay off. (Let's do the math: "about 20-years-wages"/talent times 10,000 talents = about 200,000-years' worth of wages, impossible to pay off just working, not unlike how the late fees and interest, both capitolised and added to the original loan principal, make it quite impossible for student loans to be paid off if the recipient doesn't get a lush and high-paying job.)

What do you think of the 'tough love' that Jesus will use on those who don't forgive others their debts (Matthew 18:21-35, quoted above)? If you thought this was harsh, please see how Jesus, Himself, sends people directly to hell – for, say, not feeding the hungry, clothing the naked, or taking in the homeless:

Jesus says, in Matthew, chapter 25 of the Holy Bible:
Words of Jesus in red, AMP comments in [brackets]; selected editorial comments in {{double parenth}}
35 ...{{To those on the right}} I was a {{homeless, wandering}} stranger and you [b]brought Me together with yourselves and welcomed and entertained and [c]lodged Me,
43 [To those on the left] I was a {{homeless, wandering}} stranger and you did not welcome Me and entertain Me, I was naked and you did not clothe Me, I was sick and in prison and you did not visit Me [f]with help and ministering care.
44 Then they also [in their turn] will answer, Lord, when did we see You hungry or thirsty or a stranger or naked or sick or in prison, and did not minister to You?
45 And He will reply to them, Solemnly I declare to you, in so far as you failed to do it for the least [[g]in the estimation of men] of these, you failed to do it for Me.(D)
46 Then they will go away into eternal punishment, but those who are just and upright and in right standing with God into eternal life.(E)

Footnotes:
[b] Matthew 25:35 Literal meaning.
[c] Matthew 25:35 William Tyndale, The Tyndale Bible.
[f] Matthew 25:43 Kenneth Wuest, Word Studies.
[g] Matthew 25:45 Joseph Thayer, A Greek-English Lexicon.

Cross references:
(D) Matthew 25:45 : Prov. 14:31; 17:5.

(E) Matthew 25:46 : Dan. 12:2.
Amplified Bible (AMP)

Sovereign KING Jesus goes on to say:

"46 And He said, "Woe to you also, lawyers! For you load men with burdens hard to bear, and you yourselves do not touch the burdens with one of your fingers." "3 Therefore whatever they tell you to observe, *that* observe and do, but do not do according to their works; for they say, and do not do. 4 For they bind heavy burdens, hard to bear, and lay *them* on men's shoulders; but they *themselves* will not move them with one of their fingers." **[Luke 11:46; Matthew 23:3-4, NKJV, Words of Jesus in red]**
Commentary: 'Lawyers' & others, such as Federal Lawmakers, who "load men with burdens" (by passing laws stripping students' ability to obtain bankruptcy for most college loans -and stripping 'Truth In Lending' requirements to give borrowers fair 'Due Process' notice of this) violate the Golden Rule. Lawmakers are hypocrites: They wouldn't accept this 'too hard to bear' 'burden' on their shoulders! So, if a lot of rich, powerful church and business community folk (along with a load of 'middle-class' Credit Card users) get together and outright refuse to stand up for the student borrowers' right to be treated 'equally' and 'fairly' as all other 'distressed debtors' are treated, then what will stop them from being subject to the same thing that the College Students experienced? For example: I can personally attest to the fact that my loans were given to me when bankruptcy was part of the 'Loan Contract,' and yet the terms of the Loan Contract were changed "after-the-fact." Would these many "rich" folk like it if "Big Brother" government did the same thing to them? Second question: Is such likely? ANSWER: Go back, above, and re-read (this time, more slowly) the testimony of Rev. Niemöller, and just 'sit and wonder' when (not if, but when) you will be subject to the same (or similar) oppressions as the 'silent millions' of college students, people who did not ask to be singled out like this.

This bears repeating, so I shall: Alan Collinge reports at http://StudentLoanJustice.org/press-fact-sheet.html that: "There was never a rational basis for removing bankruptcy protections from student loans. Three decades ago people found to be discharging their loans shortly after graduation, while highlighted by media and pointed to as a rationalization for bankruptcy removal, turned out to be exceedingly rare. In fact, far less than 1% of all federal loans were actually discharged in bankruptcy." Is Alan right? Yes: The recent 'urban legend' among some of the "rich & powerful" banker types that Congress had 'good' rationale for removal of bankruptcy protections from student loans, namely that many students were abusing this option by going to college, racking up large debts, & then refusing to pay is easily disproved: Default rates and overall college loan debt, good proxies for levels of bankruptcy filings, used to be very low in the past (back when bankruptcy was an option, and did not require the next-to-impossible 'Undue Hardship' test). However, it was only AFTER bankruptcy (and other Standard Consumer Protections) were removed that Student Loan Debt has, for the FIRST TIME in America's history, surpassed Credit Card Debt.

And, finally... a few words from our sponsor... GOD:

Ecclesiastes 5:13-14, Holy Bible, KJV
13 There is a sore evil which I have seen under the sun, namely, riches kept for the owners thereof to their hurt.

14 But those riches perish by evil travail: and he begetteth a son, and there is nothing in his hand.

Luke 12:16-21, Holy Bible, KJV, Letters of our Lord in Red, comment(s) [in bracket] for clarity
16 And he [JESUS] spake a parable unto them, saying, The ground of a certain rich man brought forth plentifully:
17 And he thought within himself, saying, What shall I do, because I have no room where to bestow my fruits?
18 And he said, This will I do: I will pull down my barns, and build greater; and there will I bestow all my fruits and my goods.
19 And I will say to my soul, Soul, thou hast much goods laid up for many years; take thine ease, eat, drink, and be merry.
20 But God said unto him, Thou fool, this night thy soul shall be required of thee: then whose shall those things be, which thou hast provided?
21 So is he that layeth up treasure for himself, and is not rich toward God.

James 5:1-6, Holy Bible, English Standard Version (ESV), (except v.1, which is NIV, for clarity)
"Warning to the Rich"
1 Now listen, you rich people, weep and wail because of the misery that is coming on you. **2** Your riches have rotted and your garments are moth-eaten. **3** Your gold and silver have corroded, and their corrosion will be evidence against you and will eat your flesh like fire. You have laid up treasure in the last days. **4** Behold, the wages of the laborers who mowed your fields, which you kept back by fraud, are crying out against you, and the cries of the harvesters have reached the ears of the Lord of hosts. **5** You have lived on the earth in luxury and in self-indulgence. You have fattened your hearts in a day of slaughter. **6** You have condemned and murdered the righteous person. He does not resist you.

So, the government, once again, created a problem, and then offers solutions or cures which are worse than the disease; therefore, it would behoove you to re-read this dissertation very closely, remembering that, yes, "it can happen to you."

The following, below, is a useful appendix of selected Bible passages for Jews and Christians, as it is from the Judeo-Christian Bible; people of other religions might find this enlightening to address these matters:

APPENDIX 'F' – Misc. uncategorised religious citations on Unequal Scales / Balances / Weights / Measures, etc. (from the Judeo-Christian Holy Bible)

Lev. 19:35-36; Deut. 25:13-16; Job 31:6, Prov. 11:1, 16:11, 20:10, 20:23; Ez 45:10; Amos 8:1-7; Micah 6:11; Is. 58:6-7; Matt. 25:31-46, full quote with citations & commentary to clarify

Leviticus 19:35-36 (NIV, Holy Bible)
35 "'Do not use dishonest standards when measuring length, weight or quantity.(A) **36** Use honest scales(B) and honest weights, an honest ephah[a](C) and an honest hin.[b](D) I am the Lord your God, who brought you out of Egypt.(E)

Footnotes:
[a] Leviticus 19:36 An *ephah* was a dry measure having the capacity of about 3/5 of a bushel or about 22 liters.
[b] Leviticus 19:36 A *hin* was a liquid measure having the capacity of about 1 gallon or about 3.8 liters.

Cross references:
(A) Leviticus 19:35 : Dt 25:13-16
(B) Leviticus 19:36 : Job 31:6; Pr 11:1; Hos 12:7; Mic 6:11
(C) Leviticus 19:36 : Jdg 6:19; Ru 2:17; 1Sa 1:24; 17:17; Eze 45:10
(D) Leviticus 19:36 : Dt 25:13-15; Pr 20:10; Eze 45:11
(E) Leviticus 19:36 : S Ex 12:17

Deuteronomy 25:13-16 (NIV, Holy Bible)
13 Do not have two differing weights in your bag—one heavy, one light.(A) **14** Do not have two differing measures in your house—one large, one small. **15** You must have accurate and honest weights and measures, so that you may live long(B) in the land the Lord your God is giving you. **16** For the Lord your God detests anyone who does these things, anyone who deals dishonestly.(C)

Cross references:
(A) Deuteronomy 25:13 : Pr 11:1; 20:23; Mic 6:11
(B) Deuteronomy 25:15 : S Ex 20:12
(C) Deuteronomy 25:16 : Pr 11:1

Job 31:6 (NIV, Holy Bible)
6 let God weigh me in honest scales
and he will know that I am blameless—

Proverbs 11:1 (NIV, Holy Bible)
11 The Lord detests dishonest scales,
but accurate weights find favor with him.

Proverbs 16:11 (NIV, Holy Bible)
11 Honest scales and balances belong to the Lord;
all the weights in the bag are of his making.

Proverbs 20:10 (NIV, Holy Bible)
10 Differing weights and differing measures—
the Lord detests them both.

Proverbs 20:23 (NIV, Holy Bible)
23 The Lord detests differing weights,
and dishonest scales do not please him.

Ezekiel 45:10 (NIV, Holy Bible)
10 You are to use accurate scales, an accurate ephah and an accurate bath.

A Basket of Ripe Fruit [Amos 8:1-7 (NIV, Holy Bible), Fair Use quote]

1 This is what the Sovereign Lord showed me: a basket of ripe fruit. **2** "What do you see, Amos?" he asked.
"A basket of ripe fruit," I answered.
Then the Lord said to me, "The time is ripe for my people Israel; I will spare them no longer.
3 "In that day," declares the Sovereign Lord, "the songs in the temple will turn to wailing. Many, many bodies—flung everywhere! Silence!"
4 Hear this, you who trample the needy
and do away with the poor of the land,
5 saying,
"When will the New Moon be over
that we may sell grain,
and the Sabbath be ended
that we may market wheat?"—
skimping on the measure,
boosting the price
and cheating with dishonest scales,
6 buying the poor with silver
and the needy for a pair of sandals,
selling even the sweepings with the wheat.
7 The Lord has sworn by himself, the Pride of Jacob: "I will never forget anything they have done.

Micah 6:11 (NIV, Holy Bible)
11 Shall I acquit someone with dishonest scales,
with a bag of false weights?

Well, *will* The Lord God Almighty acquit someone who is a shape-shifting chameleon and truce-breaker, who "changes the rules" mid-flight and directly violated the standards in both the U.S. Constitution and the Holy Bible? Oh, really?... And, in case the reader forgets that Sovereign KING Jesus has the same Divine authority to whack an evil-doer, please see this:

Isaiah 58:6-7 (AMP, Holy Bible; bold-faced blue and underline added for clarity)
6 [Rather] is not this the fast that I have chosen: to loose the bonds of wickedness, to undo the bands of the yoke, to let the oppressed go free, and that you break every [enslaving] yoke?(A)
7 Is it not to divide your bread with the hungry **and bring the homeless poor into your house**—when you see the naked, that you cover him, and that you hide not yourself from [the needs of] your own flesh and blood?
Cross references:
Isaiah 58:6 : Acts 8:23.

Matthew 25:31-46 (AMP, Holy Bible)
Words of Jesus in red, AMP comments in [brackets]; selected editorial comments in {{double parenth}}

31 When the Son of Man comes in His glory (His majesty and splendor), and all the holy angels with Him, then He will sit on the throne of His glory.
32 All nations will be gathered before Him, and He will separate them [the people] from one another as a shepherd separates his sheep from the goats;(A)
33 And He will cause the sheep to stand at His right hand, but the goats at His left.
34 Then the King will say to those at His right hand, Come, you blessed of My Father [you [a]favored of God and appointed to eternal salvation], inherit (receive as your own) the kingdom prepared for you from the foundation of the world.
35 For I was hungry and you gave Me food, I was thirsty and you gave Me something to drink, I was a {{homeless, wandering: Cf: Is.58:6-7}} stranger and you [b]brought Me together with yourselves and welcomed and entertained and [c]lodged Me,
36 I was naked and you clothed Me, I was sick and you visited Me [d]with help and ministering care, I was in prison and you came to see Me.(B)
37 Then the just and upright will answer Him, Lord, when did we see You hungry and gave You food, or thirsty and gave You something to drink?
38 And when did we see You a stranger and welcomed and entertained You, or naked and clothed You?
39 And when did we see You sick or in prison and came to visit You?
40 And the King will reply to them, Truly I tell you, in so far as you did it for one of the least [[e]in the estimation of men] of these My brethren, you did it for Me.(C)
41 Then He will say to those at His left hand, Begone from Me, you cursed, into the eternal fire prepared for the devil and his angels!
42 For I was hungry and you gave Me no food, I was thirsty and you gave Me nothing to drink,
43 I was a {{homeless, wandering: Cf: Is.58:6-7}} stranger and you did not welcome Me and entertain Me, I was naked and you did not clothe Me, I was sick and in prison and you did not visit Me [f]with help and ministering care.

44 Then they also [in their turn] will answer, Lord, when did we see You hungry or thirsty or a stranger or naked or sick or in prison, and did not minister to You?
45 And He will reply to them, Solemnly I declare to you, in so far as you failed to do it for the least [[g]in the estimation of men] of these, you failed to do it for Me.(D)
46 Then they will go away into eternal {{hell-fire: Matthew 5:22, 18:9; Mark 9:43-47; James 3:6; Revelation 20:14}} punishment {{forever: Genesis 3:22; Jude 1:13; Revelation 20:10}}, but those who are just and upright and in right standing with God into eternal life.(E)

Footnotes:
(a) Matthew 25:34 Joseph Thayer, A Greek-English Lexicon.
(b) Matthew 25:35 Literal meaning.
(c) Matthew 25:35 William Tyndale, The Tyndale Bible.
(d) Matthew 25:36 Kenneth Wuest, Word Studies.
(e) Matthew 25:40 Joseph Thayer, A Greek-English Lexicon.
(f) Matthew 25:43 Kenneth Wuest, Word Studies.
(g) Matthew 25:45 Joseph Thayer, A Greek-English Lexicon.

Cross references:
(A) Matthew 25:32 : Ezek. 34:17.
(B) Matthew 25:36 : Isa. 58:7.
(C) Matthew 25:40 : Prov. 19:17.
(D) Matthew 25:45 : Prov. 14:31; 17:5.
(E) Matthew 25:46 : Dan. 12:2.
Amplified Bible (AMP)

Certificate of Font Size, Font Type, and Margins

I, Gordon Wayne Watts, hereby certify that, in the construction of this brief, I used font “Times New Roman” of font size = 12, except in the cover page, one Op-Ed, and a quote of Amos 8:4-7, in the 'Religious Freedoms' sections, as well as a quote by Martin Niemöller in APPENDIX 'E', where slight variations for style are apparent. For the margins, I used 0.75” (¾ of an American inch) per side, which is believed to be convenient for most printers. For the colour, I used Black Font except in rare cases where an Op-Ed or an active Internet link called for a differing colour, or quoting the words of Jesus “in red,” to illustrate Religious Freedoms in the indicated section.

Certificate of Service

As yet, I have not served this upon anyone, but am placing this, my research, in the Public Domain, in order that it may avail assistance and help for others for whom it may afford much-needed help.

- by mine own hand, and via electronic signature, I now do sign:
- Gordon Wayne Watts
- Date: Tuesday, 30 June 2015, at: 01:18 PM, Eastern Standard Time