15-832

IN THE UNITED STATES COURT OF APPEALS
FOR THE SECOND CIRCUIT

ANA SALAZAR; MARILY MERCADO; ANA BERNARDEZ; JEANNETTE POOLE; LISA BRYANT; CERRYLINE STEVENS; and EDNA VILLATORO, Individually and on behalf of all others similarly situated,

Plaintiffs-Appellants,

— v. —

ARNE DUNCAN, in his official capacity as Secretary of the United States Department of Education,

Defendant-Appellee.

On Appeal from the United States District Court for the Southern District of New York

BRIEF OF *AMICI CURIAE*
IN SUPPORT OF PLAINTIFFS-APPELLANTS URGING REVERSAL
(Amici listed on next page)

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CORPORATE DISCLOSURE STATEMENT OF THE EAST BAY COMMUNITY LAW CENTER

The East Bay Community Law Center is a 501(c)(3) non-profit organization. It has no parent corporations, no publicly held corporations have ownership interests in it, and it has not issued shares.

Dated: May 25, 2015
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CORPORATE DISCLOSURE STATEMENT OF THE LEGAL SERVICES CENTER OF HARVARD LAW SCHOOL

The Legal Services Center is a program of Harvard Law School at Harvard University, a 501(c)(3) non-profit organization. It has no parent corporations, no publicly held corporations have ownership interests in it, and it has not issued shares.

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CORPORATE DISCLOSURE STATEMENT OF NATIONAL CONSUMER LAW CENTER

The National Consumer Law Center ("NCLC") is a Massachusetts non-profit corporation established in 1969 and incorporated in 1971. It is a national research and advocacy organization focusing specifically on the legal needs of low income, financially distressed and elderly consumers. NCLC operates as a tax-exempt organization under the provisions of §501(c)(3) of the Internal Revenue Code. It has no parent corporations and no publicly held company owns 10% or more of its stock.

Dated: May 25, 2015
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CORPORATE DISCLOSURE STATEMENT OF NEW ECONOMY PROJECT

New Economy Project (dba/formerly Neighborhood Economic Development Advocacy Project), an organizational amicus curiae, is a non-profit, non-stock corporation. It has no parent corporations, no publicly held corporations have ownership interests in it, and it has not issued shares.

Dated: May 21, 2015
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AMICI'S STATEMENT OF INTEREST

The *amici curiae* submitting this brief serve low-income and minority communities who disproportionately include borrowers struggling with federal student loan debt, frequently as the result of attending for-profit schools like Wilfred Academy. The *amici* provide direct legal services and/or participate in legislative, educational or other advocacy efforts to help defrauded borrowers obtain relief from the undue burden of their student debt. The communities that *amici* serve would therefore likely be directly impacted by the Court's ruling in this matter.[1]

The Consumer Justice Clinic at the East Bay Community Law Center (EBCLC) provides direct legal service to consumers in Alameda County on a wide variety of issues, including student loans. As a result of the recent closures of Corinthian Colleges and other schools in California, EBCLC has seen a large number of students who are saddled with student debt that they cannot afford to repay as a result of being defrauded by for-profit schools.

The Legal Services Center (LSC), part of Harvard Law School's clinical program, is a legal services office staffed by Harvard Law School faculty. LSC's clinical faculty offer courses on a range of topics, including student loan law and

[1] No party's counsel authored this brief in whole or in part; and no party or party's counsel or person other than *amici* contributed money that was intended to fund preparing or submitting the brief.

consumer bankruptcy. Instructors also supervise students as part of a client services clinic, and many of LSC's cases involve representation of students defrauded by for-profit school. LSC's academic role and direct experience with student debt informs its views on the issue.

The National Consumer Law Center (NCLC) is a national research and advocacy organization focusing on justice in consumer financial transactions, especially for low-income and elderly consumers. Since its founding as a nonprofit corporation in 1969, NCLC has been a resource center addressing numerous consumer finance issues affecting equal access to fair credit in the marketplace. NCLC publishes a 20-volume Consumer Credit and Sales Legal Practice Series, including Student Loan Law, which is in its fifth edition, and has served on numerous Department of Education negotiated rulemaking committees as the designated legal aid representative. NCLC is recognized nationally as an expert in consumer credit issues. For more than 46 years, NCLC has drawn on this expertise to provide information, legal research, policy analyses and market insights to federal and state legislatures, administrative agencies and the courts. NCLC frequently appears as *amicus curiae* in consumer law cases before trial and appellate courts throughout the country.

NCLC's Student Loan Borrower Assistance Project provides information about student loan rights and responsibilities for borrowers and advocates. The

Project also seeks to increase public understanding of student lending issues and to identify policy solutions to promote access to education, lessen student debt burdens and make loan repayment more manageable. In addition to advocacy, NCLC provides limited direct representation to low-income student loan borrowers through Massachusetts-based legal services and work force development organizations.

New Economy Project (formerly Neighborhood Economic Development Advocacy Project) works with New York City groups to promote community economic justice and to eliminate discriminatory economic practices that harm communities and perpetuate inequality and poverty. New Economy Project provides direct services to thousands of low-income New Yorkers through a legal hotline; builds the capacity of community-based organizations to address financial justice issues; conducts research; and advocates for systemic reform.

All parties have consented to the filing of this brief.

SUMMARY OF ARGUMENT

This case concerns the Secretary of Education's refusal to notify defrauded former students of Wilfred Academy of their statutory right to discharge their federal student loans as a result of Wilfred's false certification of their ability to benefit from Wilfred's programs, and to suspend collection of their loans. Instead, the Secretary insists on continuing to use his extraordinary collection powers against these students, while refusing to provide the required notice that they may be eligible to discharge their loans.

Amici are organizations that provide legal services to low-income consumers who, like the plaintiffs in this case, have been defrauded by predatory for-profit colleges and left without knowledge of or access to the federal student loan discharges to which they are entitled. In the experience of the *amici curiae*, student loan borrowers who attended for-profit schools are almost universally unaware whether they are eligible for one or more of the discharges provided by the Higher Education Act.

The Department of Education, through its servicers, often fails to inform federal student loan borrowers of their relief options, much less help them take advantage of those options. Borrowers are therefore exposed to widespread inaccurate and incomplete information about student loan relief and repayment. This is especially true for borrowers like the plaintiffs in this case who attended

for-profit vocational schools. These schools target the most vulnerable populations, including homeless people, single parents, non-English speakers, and combat veterans. It is therefore unsurprising that they are frequently ill-equipped to discover and to navigate difficult federal student loan discharge programs. Legal assistance with student loans for low-income people is scarce.

Students who experience fraud of the type committed by Wilfred are significantly less likely to complete their programs and significantly more likely to default on their federal student loans. The consequences of such default are extremely harsh, including non-judicial wage garnishment, offset of federal benefits, and ineligibility for additional federal student loans that would allow them to pursue legitimate educational options.

By refusing to provide defrauded student loan borrowers information to which they are entitled about the relief available to them and refusing to suspend collection of their loans, the practical effect of the Department of Education's actions in this case is to condemn former Wilfred students to a lifetime of financial punishment for their schools' criminal acts.

ARGUMENT

I. Like Plaintiffs, Clients of the Amici and Many Others Have Been Harmed By Widespread Fraud Among For-Profit Schools

Through clients and community partners, the *amici* are familiar with the fraudulent practices commonly employed by many for-profit schools, including

deceptive advertisements, high-pressure enrollment practices, the absence of promised academic and career development support, and exploitative contracts – all targeted at non-traditional students or those just barely old enough to sign. Clients come with crushing and unaffordable student loan debt as a result of enrollment in programs that they never completed, in service of credentials they never obtained. Others complete programs only to find themselves ineligible for the promised employment opportunities that induced them to incur the debt.

Decades of federal investigations, studies, and reports detail repeated and consistent wrongdoing on the part of for-profit schools, including Wilfred Academy, and the attendant harm to students. In particular, these investigations have highlighted the industry practice of falsely claiming that students without high school credentials nevertheless passed an exam showing that a student had the ability to benefit from the program, a requirement for students to receive federal financial aid. Indeed, a 1991 Senate subcommittee report found that such "[i]mproperly screened ability to benefit students usually drop out, often after having incurred student loan debts they have no means to repay." *Abuses in Federal Student Aid Programs*, S. Rep. No. 102-58 16-17 (1991). It was in response to these findings of abuse that Congress provided for federal loan discharges for students whose ability to benefit had been falsely certified. *See* Pub. L. No. 102-325, § 437 (1992) codified at 20 U.S.C. § 1087(c). Despite the creation

of the false certification discharge, proprietary schools like Wilfred continued to defraud the federal student loan program by falsifying students' ability to benefit test results. In 2009, the Government Accountability Office and other state and federal investigators found numerous instances of proprietary schools falsifying test results to increase their access to federal student aid. *See* U.S. Gov't Accountability Office, GAO-09-600, *Proprietary Schools: Stronger Department of Education Oversight Needed to Help Ensure Only Eligible Students Receive Federal Student Aid* 22-23 (2009).

In 2012, Congress amended the Higher Education Act to eliminate ability to benefit tests for students who begin programs on or after July 1, 2012. *See* Pub. L. No. 112-74, 125 Stat. 786, 1100 (2011) (codified at 20 U.S.C. § 1091). While this action protected new students, it did not help the multitude of students whose ability to benefit had already been falsely certified.

II. Few Borrowers Are Aware of Their Statutory Discharge Rights

Because the Department of Education fails to inform defrauded borrowers of their discharge rights, very few eligible borrowers are ever aware that they are entitled to discharge their federal student loans. In addition to the type of discharge at issue in this appeal, borrowers may obtain an administrative discharge of their student loans for reasons of disability or school closure and other limited reasons. *See* 34 C.F.R. § 685.215(c)(1); 34 C.F.R. § 685.213; 34 C.F.R. § 685.214. Under

certain conditions, they may be entitled to forgiveness of all or some of their loans based on their employment as a teacher or in other public service, amongst other reasons. *See* 34 C.F.R. § 682.216; 34 C.F.R. § 685.219. Even sophisticated borrowers, however, are frequently unaware of these forms of relief. By the Department's own estimate, only 6% of eligible students even inquire about closed school discharges. *See* Paul Fain, *Best of a Bad Situation?*, Inside Higher Ed, Dec. 9, 2014, https://www.insidehighered.com/news/ 2014/12/09/feds-respond-criticism-bid-ecmc-buy-most-corinthian. Because they are not informed of their discharge eligibility, these borrowers will likely owe student loans for the rest of their lives.

Many low-income clients seek assistance from the Legal Services Center in obtaining Social Security Disability Insurance, and a great number of them are also student loan borrowers. While those disabled clients are aware of the Disability Insurance Program, few, if any, are aware that the same physical disability may also entitle them to discharge their student loans. Similarly, as a wave of for-profit schools have closed, the bewildered former students who contact the Legal Services Center are typically unaware that they are eligible for a full discharge of the loans they incurred at the closed school.

The Department's failure to inform borrowers of the relief available to federal student loan borrowers is compounded by multiple other factors, with the

result that few borrowers are aware that they can administratively discharge their student loans in certain circumstances. Servicers under contract with the Department and FFEL lenders to provide complete and accurate information to borrowers are often poorly trained and unaware of the full range of relief options for borrowers despite the fact that many of these options have been available since the 1990s. Because of the failure of servicer competence, many borrowers end up paying their already limited funds to debt relief companies, which attract business by offering to provide for large fees the information and assistance that servicers should provide for free. *See* Deanne Loonin, Nat'l. Consumer Law Ctr., *Searching for Relief: Desperate Borrowers and the Growing Student Loan "Debt Relief" Industry* 10 (2013). The eligibility criteria and application procedures are byzantine in their complexity and have been subject to frequent change in recent years, making the process difficult to navigate and understand. Moreover, persistent and possibly self-reinforcing misinformation about student loans stubbornly persists amongst borrowers.

One source of borrowers' confusion is that their eligibility for various repayment programs and administrative discharges depends on which federal student loan program provided the loan. Federal Family Education Loans ("FFEL" loans) – federally guaranteed student loans made by private lenders until the program was discontinued in 2010 – are not eligible for public service loan

forgiveness. *See* 34 C.F.R. § 685.219(b) (omitting FFEL from definition of eligible loans). Loans made through the Perkins loan program are not eligible for false certification discharge. *See* 34 C.F.R. § 685.215 and 34 C.F.R. § 682.402(e) (allowing false certification discharge for Direct and FFEL program loans only). Parent PLUS loans are not eligible for Income-Based Repayment, but may become eligible for Income-Contingent Repayment if the borrower pays off the Parent PLUS loan(s) with a Direct Consolidation loan. *See* 34 C.F.R. § 682.215(a)(2); 34 C.F.R. § 685.209(a)(1)(ii).

Complicated and shifting application procedures add to borrowers' confusion about how to obtain relief. Social Security Disability recipients, for instance, were long unable to submit their Social Security award notices as definitive evidence that they had a "total disability," in support of applications to discharge their student loans, despite the obvious relevance of such a notice. As of July 1, 2013, however, award notices are considered definitive evidence of the borrower's disability in support of discharge applications – but only if the notice states that the Social Security Administration will review its determination in five to seven years. *See* 77 Fed. Reg. 66088-01, 66089 (Nov. 1, 2012) (codified with respect to Direct Loans at 34 C.F.R. § 685.213).

Even seemingly simple application procedures are often too difficult for the students who attend the most problematic, for-profit institutions. These schools

focus their recruiting efforts on first-generation college students from low-income communities and at-risk students with limited basic skills, such as Plaintiff Ana Salazar, who did not speak English when she was recruited by Wilfred. *See, e.g.*, S. Comm. on Health, Educ., Labor, & Pensions, 112th Cong., *For Profit Higher Education: The Failure to Safeguard the Federal Investment & Ensure Student Success* 96 (2012) (one of the largest for-profit college companies "indicated in an internal email that over 90 percent of their students cannot do basic math"). Recently, after a chain of local for-profit trade schools closed with no warning, over a dozen of its former students sought assistance from one of the *amici*, unable to understand or complete the one-page application for a closed school discharge of their student loans. At the time, state regulators were encouraging students to continue their program through a "teach-out" at another institution – but any student who participated in a teach-out would not be eligible to discharge their loans, a fact the students understood poorly, if at all.

Finally, student borrowers must overcome the ubiquitous misinformation – likely repeated to them by friends, family, journalists and, not least of all, debt collectors – that their student loans simply cannot be discharged. *See, e.g.*, *Easterling v. Collecto*, 692 F.3d 229 (2d Cir. 2012) (finding debt collector's misrepresentation that student loan could not be discharged violated the Fair Debt Collection Practices Act, 15 U.S.C. § 1692 *et seq.*). This pervasive myth about

student loans likely owes its origin to the special status of student loans in bankruptcy. While debtors cannot discharge student loans in bankruptcy in the same fashion as other unsecured debt, it is unequivocally false that they cannot discharge their student debt under any circumstances. Bankrupt student debtors must commence an adversary proceeding in bankruptcy court and demonstrate that their student loans pose an "undue hardship." *See* Jason Iuliano, *An Empirical Assessment of Student Loan Discharges and the Undue Hardship Standard*, 86 Am. Bankr. L.J. 495, 496 (2012). Some commentators describe the "undue hardship" standard as "nearly impossible" to meet, but this at least somewhat overstates the difficulty of obtaining a bankruptcy discharge for a student loan. *Id.* at 506-07, 523. However, the idea that student loans cannot be discharged has taken on a life of its own:

> [T]he view that student loan discharges are nearly impossible to obtain may be a self-fulfilling prophecy . . . journalists and academics have long asserted that it is nearly impossible to meet the undue hardship standard. If debtors take these comments to heart and believe that their chances of success are trivial, they will be less likely to attempt to discharge their educational debt.

Id. at 523. Whatever its origin, the mistaken belief that there is no relief from student loan debt – whether through bankruptcy or administrative discharge – is widespread amongst student loan borrowers.

In sum, student borrowers typically do not know that they can in fact discharge their student loans under certain circumstances – both because they are

frequently mis- or un-informed, but also because the actual processes for discharge are bewilderingly technical and complicated. The Secretary's failure to adequately and accurately inform students of their rights results in a dearth of correct and accessible information, and is compounded by the complexity of discharge forms and processes.

III. Very Little Help is Available to Defrauded Student Loan Borrowers

As is clear in this case, numerous barriers stand between people harmed by for-profit school abuses and the type of assistance that would help them obtain relief. Because of the Department's failure to inform borrowers of their rights, its failure to provide the required notice to the plaintiffs and other defrauded borrowers that they may be eligible for a false certification discharge, and its difficult-to-navigate discharge application procedures, it is highly unusual for defrauded borrowers to navigate the system successfully on their own. Instead, they require the assistance of attorneys or counselors familiar with student loan law who will review their situation and documents and provide individualized advice and representation. *See An Act to Form a Commission on For-Profit Schools: Hearing on H. 1066/S. 134 Before Mass. Joint Comm. on Higher Educ.*, 2012 Leg., 187th Sess. (Mass. 2011) (Written Testimony of Deanne Loonin, Director, National Consumer Law Center's Student Loan Borrower Assistance Project).

Low-income people seeking legal help with any type of consumer issue,

however, are more likely to be turned away from their legal aid provider than to receive help. *See, e.g.*, Boston Bar Ass'n Statewide Task Force to Expand Civil Legal Aid in Mass., *Investing in Justice* 8 (2014) (finding that low-income people seeking help with consumer matters in Massachusetts are turned away 70% of the time statewide and 93% of the time in the Central/West of the Commonwealth); Task Force to Expand Access to Civil Legal Services in N.Y., *Report to the Chief Judge of the State of New York* 16 (2010) (finding that 1% of New York City residents sued on a consumer debt were represented by counsel); D.C. Access to Justice Commission, *Justice for All? An Examination of the Civil Legal Needs of the District of Columbia's Low-Income Community* 9 (2008) (legal aid providers in Washington D.C. turned away more requests for help with consumer matters than almost any other area of law). The absence of civil legal aid in this area is multiplied by funding constraints that limit program capacity.

Borrowers also suffer because of the widespread misconception, even among attorneys, that little or no relief is available to student loan debtors. For example, a client of the Legal Services Center was advised by the first attorney she contacted that it was too difficult to pursue a claim "for misleading students or providing an incompetent education;" but, to the contrary, a state investigator later found that the school's actions had been noncompliant with regulations prohibiting deceptive marketing. For these reasons, among others, it is extremely difficult for

low-income borrowers to obtain legal assistance to solve student loan problems or enforce their rights against schools.

IV. Students Who Were Defrauded by Wilfred and Other For-Profits Are More Likely to Fail to Complete Their Program and Default on Their Loans

It has long been clear that students like Plaintiffs suffer lifelong harm as the result of for-profit school abuses. In the early 1990s, a Senate investigation found that students who experienced fraudulent recruiting and enrollment practices "usually drop[ped] out." *Abuses in Federal Student Aid Programs*, S. Rep. No. 102-58 17 (1991). More than twenty years later, another Senate investigation of pervasive fraud at proprietary schools revealed that 57% of students left for-profit schools without completing their program. S. Comm. on Health, Educ., Labor, & Pensions, 112th Cong., *For Profit Higher Education: The Failure to Safeguard the Federal Investment and Ensure Student Success* 72 (2012). Students in certificate programs dropped out at a rate of 38.5%. *Id.* at 74.

A borrower's failure to complete an educational program is another strong predictor of student loan default, and is disproportionately linked to non-degree programs and especially those programs at for-profit schools. The National Center for Education Statistics found that approximately 40% of students seeking certificates or associates degrees from for-profit colleges failed to complete those degrees within 150% of the normal time required. *See* Nat'l Ctr. for Educ.

Statistics, U.S. Dep't of Educ., NCES 2012-045, *The Condition of Education 2012* 280 (2012); *see also* Deanne Loonin, Nat'l Consumer Law Ctr., *The Student Loan Default Trap* 11 (2012) (citing lack of completion as key risk factor for default); Lawrence Gladieux & Laura Perna, Nat'l Ctr. for Pub. Policy & Higher Educ., *Borrowers Who Drop Out* 9 (2005) (finding that a quarter of borrowers who completed non-degree programs in 2001 defaulted on their loans, as compared to a third of borrowers who did not complete their programs).

Official statistics indicate that 22% of students of for-profit schools default on federal loans within three years of entering repayment, S. Comm. on Health, Educ., Labor, & Pensions, 112th Cong., *For Profit Higher Education: The Failure to Safeguard the Federal Investment & Ensure Student Success* 114 (2012), and about 46% default over the lifetime of the loan. *Id.* at 18. Multiple investigations suggest that official statistics dramatically underreport defaults on federal loans. *See, e.g.*, *id.* at 116-17; Mark Kantrowitz, *Identifying Colleges with Aggressive Management of Cohort Default Rates*, Finaid.org, Sept. 21, 2010, http://www.-finaid.org/educators/20100921aggressivedefaultmanagement.pdf. Based on these findings and statistics, it is not at all surprising that Ms. Salazar defaulted on her loans; her experience is likely the norm among former Wilfred students.

Notably, these increased default rates for students attending for-profit schools, and the harsh ensuing consequences, disproportionately impact students of

color. African-American and Latino students are more likely to enroll in for-profit programs than white students, and African-American and Latino students are more likely to take out student loans to attend those for-profit schools. *See* Leslie Parrish & Peter Smith, Center for Responsible Lending, *For-Profit Colleges Saddle African-American and Latino Students with Crushing Debt and Poor Employment Prospects* (2014).

V. Defaulting on Student Loans Severely Harms Borrowers Who, Like Plaintiffs, Experience Years of Harsh Legal and Financial Consequences of Schools' Fraud

As exemplified by Ms. Salazar's experiences, the consequences of federal student loan defaults are severe and long-lasting. Most student loans survive bankruptcy. *See* 11 U.S.C. § 523(a)(8) (exempting federal and private student loans from discharge unless doing so "would impose an undue hardship"); *see also Brunner v. New York State Higher Educ. Services Corp.*, 831 F.2d 395, 396 (2d Cir. 1987) (requiring three-prong showing of undue hardship: "(1) that the debtor cannot maintain . . . 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 . . . ; and (3) that the debtor has made good faith efforts to repay the loans").

Borrowers in default are not eligible for additional federal student loans, thereby preventing them from ever obtaining or completing their education. As a

result, defaulted student loans prevent many of the Legal Services Center's clients and others like them from pursuing educational opportunities that would permit them to pay off their existing debt and advance their career goals. With incomplete or low-value degrees and significant debt, they are barred from ever improving their situation.

Moreover, without any court action or judicial supervision whatsoever, federal loans can be collected through garnishment of wages, intercept of tax refunds and earned income tax credits, and offset of federal benefits. These collection activities were used aggressively against Ms. Salazar, even though the evidence that she may have been eligible for a false certification discharge should have caused a suspension of collections and triggered notification of how she could request a discharge. *See* 34 C.F.R. § 682.402(e)(6)(ii) (FFEL); 34 C.F.R. § 685.215(d)(1).

Once the Department of Education submits a request to Treasury, defaulted borrowers' desperately-needed income disappears before they ever see the money. Earned Income Tax Credit refunds are seized in their entirety. Borrowers' disability benefits are docked as much as 15%, despite the fact that defaulted borrowers receiving Social Security Disability benefits are almost certainly eligible for disability discharge. *See* 31 C.F.R. § 285.4(e); 34 C.F.R. § 685.213. The Department also garnishes up to 15% of defaulted borrowers' wages earned from

private employers using its non-judicial garnishment authority. *See* 31 U.S.C. § 3720D; 34 C.F.R. §§ 34.1-34.30. These garnishments may proceed despite state law prohibitions or limitations. *See* 20 U.S.C. § 1095a(a).

If the holder of a federal student loan chooses to file a lawsuit to collect on the loan, that lawsuit is free from many of the constraints that limit actions on other types of contractual debt. Federal student loan borrowers may not raise the defense of infancy, regardless of state law. 20 U.S.C. § 1091a(b) (FFEL loans); *see also* 20 U.S.C. § 1087e(a)(1) (applying conditions of FFEL loans to Direct loans). Federal student loans are not subject to any statute of limitations. 20 U.S.C. § 1091a(a)(2).

Defaulted student loan borrowers are also subjected to the extraordinarily lawless practices of the debt collection industry. *See, e.g.*, Andrew Martin, *Debt Collectors Cashing in on Student Loan Roundup*, N.Y. Times, Sept. 8, 2012, at A1. Clients of the Legal Services Center and other similarly situated borrowers receive abusive and deceptive threats over the phone and in the mail and are harassed to the point of changing their phone numbers.

Defaulted student loan borrowers experience ongoing harm from collection activities. The consequences of student loan default are draconian under normal circumstances, and unconscionable when borrowers are clearly entitled to suspension of collection and notification that they may be eligible for false

certification discharges.

CONCLUSION

The widespread fraud at for-profit proprietary schools such as Wilfred; the Department of Education's failure to correct prevalent misinformation; confusion about student loan relief and forgiveness; and the exceptional scarcity of legal help for defrauded borrowers all combine to form an environment in which borrowers are extremely unlikely ever to discover their entitlement to discharge of their federal student loans. Instead, despite their entitlement to notice and suspension of collections, they experience the harsh and long-lasting consequences of student loan default. Without information about their rights, borrowers pay unaffordable penalties for their schools' misdeeds for the rest of their lives.

Dated: May 25, 2015

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CERTIFICATE OF COMPLIANCE WITH FRAP 32(a)

This brief complies with the type-volume limitation of Fed. R. App. P. 32(a)(7)(B) because this brief contains 4,374 words, excluding the parts of the brief exempted by Fed. R. App. P. 32(a)(7)(B)(iii).

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