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# Conn. Courts Flooded With Hundreds of Suits Demanding Student Loan Repayments

Collection attempts linked to out-of-state company

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A student loan company has been filing hundreds of lawsuits in Connecticut state courts against former students in recent years, and in many cases, the defendants are trying to navigate their way through the debt situation with no help from any attorney.

The for-profit National Collegiate Student Loan Trust has filed about 465 cases in Superior Court in Connecticut alone since 2012, according to the state Judicial Branch's website. National Collegiate, which was created by Boston financial firm First Marblehead Corp., has filed thousands of similar claims in other states too.

In many of the cases, the company wins a default order because the debtor fails to appear. Some former students attempt to represent themselves, and a few get an attorney. Attorney Joshua Cohen of Vermont, a Quinnipiac School of Law graduate who also practices in Connecticut and describes himself as "the student loan lawyer," said he is defending about two dozen cases in Connecticut involving former students sued by National Collegiate.

"The layperson doesn't understand the technicality of a lawsuit—they might not know to file an answer," Cohen said. "They don't know how to dispute any part of this."

Of his cases that have been resolved, all were withdrawn by the plaintiff's counsel, according to Cohen. "They hope they get a pro se, or someone who doesn't show up so they get a default," Cohen said. "They have a harder time when the person has hired an attorney who asks for information" about the outstanding loan. "They are filing a lot of cases, and it begs the question—how well are they reviewing these before they file?" Cohen said.

Financial institutions such as Charter One, Citizens Bank, Bank of America and Chase sell off their education debt, which National Collegiate takes on and packages as an investment vehicle. If this sounds familiar, it's because financial instruments involving bundled mortgage debt are often blamed for contributing to the Wall Street meltdown of 2008. In subsequent years, some Connecticut lawyers were able to prevent foreclosure of some clients' homes by demanding that actual loan records be produced. Often, the lenders could not do so because of multiple transfers of the debt.

Attorneys such as Cohen, hired to represent students, have pursued a similar defense, demanding that National Collegiate produce the actual loan documents.

"There is a legitimate question of standing and accounting, and I haven't had one case go to trial yet," Cohen said. "I believe they can't prove standing or that National Collegiate officially owns these accounts. If you can't prove you own the loan, you can't sue." According to published reports, such defenses have been successful in lawsuits filed by National Collegiate in Ohio, Florida and Kentucky, among other places.

Because they are private, and not federal loans, there is nothing clients can do to make the loans more affordable, according to Cohen. "They are completely inflexible on repayment terms, so people end up defaulting," Cohen said. "Sometimes they want \$500 a month from people who don't have jobs yet."

One of the lawsuits, for example, filed in May against a Bridgeport woman, demands \$15,464, which includes the original loan plus interest. According to that lawsuit, the original lender was Charter One, and the loan was sold to National Collegiate for "valuable consideration." The lawsuit, which also seeks attorney fees, asserts the plaintiff is "now the owner" of the loan.

Another example of a Connecticut lawsuit, filed in 2014, deals with an original \$18,500 loan which a student obtained from Charter One in 2006 to attend the University of Hartford. The lawsuit is now seeking \$31,862, because of interest and late fees.

In another case, slated for a pretrial conference in July, a Manchester man, who is representing himself, is alleged to owe \$38,606. He wrote in court documents, "It was never my intention to default on this loan, however; as I explained to them repeatedly I cannot afford to make a payment of \$600 to \$800 a month."

Attorney Daniel Blinn, of the Consumer Law Group in Rocky Hill, isn't representing any of the defendants, but he noted that most people who can't afford to pay their student loans likely can't afford an attorney to represent them either. "Attorneys representing consumers have observed that student loan debt is one of the most pressing problems," Blinn said. "The amount of debt is staggering and crippling."

The law firm of Solomon and Solomon in Albany, New York, is representing National Collegiate in many of the Connecticut cases. Attorney Douglas Fisher of the firm said he doesn't practice in Connecticut, and he declined to comment on the particulars of any individual case. National Collegiate is the assignee on the student loans, he said. "No creditor just goes the lawsuit route. They always try to reach the borrower before they get to that point," Fisher said. "No one would like to go to court."

When asked about allegations that National Collegiate can't always produce the necessary paperwork, Fisher acknowledged that a standard defense is to demand paperwork, and he said, "As a general rule, if there are documents, they will be attached to the court file."

Jay Fleischman of Shaev & Fleischman in New York and California, a consumer protection lawyer, says on his website he has been getting a significant increase in people calling him after they have gotten legal papers from National Collegiate. Fleischman advises student debtors that when a creditor sues, they have to prove they own the loan and have the right to collect, and that the amount of money claimed is the proper amount due.

Fleischman writes on his Consumer Help Central website that fighting the lawsuit forces their

attorneys to prove the former student owes them money.

"They'll have to account for the debt, as well as the fact that you are legally liable to them for payment," he wrote. "It's amazing at how often those simple facts can't be proven. There may not be any documented proof that you owe the debt. Other times, the debt is beyond the collection period."

Jaclyn M. Falkowski, director of communications with the Office of the Attorney General, said her office received one complaint from a Connecticut resident in April about National Collegiate. In that case, the attorney general's office contacted the entity, and the resident was subsequently put on a payment plan that resolved the matter, and that complaint is closed, according to Falkowski. "We have received no further complaints from Connecticut residents about this entity, and we are not in a position to comment on its practices," Falkowski said.

Hamden attorney Neil Crane said he is not defending anyone who has fallen behind on their student loans, but he had someone come in recently to talk after being sued by National Collegiate. "I haven't seen a lot of student loan lawsuits until recently," Crane said. "My feeling about student loans is that they have made them nearly impossible to pay. It is very difficult to resolve and settle them and they are extremely aggressive in their collections. If you can avoid it, don't borrow."

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