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Some Needed Financial Relief for Students

Students graduating from American colleges are under a crushing burden of debt. This is true even when the students attend public colleges. America, alone among industrial countries, throws its students to the wolves when they graduate, especially if they are in debt. Compounding the injustice we do to our hardworking students, many of whom have secondary and tertiary jobs, is that the students may then find themselves pursued and hounded because they have bad credit.

The courts have begun to grapple with the question as to whether a student loan is subject to the Fair Credit Reporting Act. Finally, the United States Court of Appeals for the Third Circuit has given students some small scent of fairness.

The United States Court of Appeals ruled that a student loan is subject to the Fair Credit Reporting Act and that the borrower may have a case against Temple University for its practices in trying to extract payment on a debt.

On January 16, 1989, Edward M. Seamans received a need-based loan of $1,180 from Temple. The first payment on the loan was due January 20, 1992. The loan was declared delinquent on February 4, 1992. With the full balance of the loan still unpaid, Temple notified Seamans that the account had been placed for collection. In January 2010, Seamans enrolled as a full-time student at Drexel University. In the spring of 2011, Seamans sought financial aid in the form of a Pell Grant, but Drexel refused until he repaid the balance of the still-outstanding loan to Temple. On April 28, 2011, Seamans repaid the loan in full.

In the aftermath of Seamans' repayment of the loan, Temple reported certain loan-related data to a credit reporting agency. Temple did not report the date of first delinquency for the loan, which was 1992, and did not report that the account had ever been placed for collection. Seamans formally disputed the information provided to the credit reporting company. Temple, in 2011, resubmitted the information to TransUnion, virtually unchanged. Temple did not report that the alleged debt was now disputed. After a second investigation, Temple still did not report the loan's history in collections, the date of first delinquency, or the fact that Seamans was disputing the accuracy of the reported information.

Finally, Seamans filed a complaint against Temple in the United States District Court, alleging that Temple negligently or willfully violated the Fair Credit Reporting Act with respect to its reporting of the loan. Temple sought to have the case dismissed.

Temple University was found to be a furnisher of consumer credit data under the Fair Credit Reporting Act. Temple is not exempt under other legislation governing higher education. Furnishers of consumer credit data remain obligated fully to report, and with accuracy, under the Fair Credit Reporting Act. At issue in *Seamans v. Temple University* was the failure of Temple to report the collection history and date of delinquency for a federally qualifying education loan. The debt was old and contested, but Temple did not report that. The statute sets forth what the obligations are of lenders and collectors.

Investigation into a consumer's complaint about collection of the debt must be "reasonable." The meaning of "completeness" and "accuracy" in the context of a

furnisher's duty under the Fair Credit Reporting Act is a matter of first impression in the Court of Appeals. In the case of *Seamans*, the trade line's appearance on a credit report was directly traceable to Temple's failure to report the loan's collection history and date of delinquency. Temple may have provided incomplete and inaccurate information in that it did not disclose the account's date of first delinquency or the fact that the account had been placed for collection in 1992. Temple violated the Fair Credit Reporting Act by failing to flag an account as disputed in its later reporting. A furnisher is affirmatively obligated to flag an account as disputed. The consumer can get attorney's fees and even punitive damages, whereas here Temple hardly did anything to service the account. It was just a blanket policy. In effect, Temple did not look at any specific information about the debtors account, complaints that it was not collectable or the date of the delinquency. The University had a blanket policy of in effect blowing off consumer concerns. The court found that policy could lead to a legitimate lawsuit.

The case is *Seamans v. Temple University*, 44 F.3d 853 (3rd Cir. 2014).

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