

**UNITED STATES BANKRUPTCY COURT
SOUTHERN DISTRICT OF TEXAS
HOUSTON DIVISION**

<p>EVAN BRIAN HAAS, MICHAEL SHAHBAZI,</p> <p style="text-align: center;">Plaintiffs,</p> <p style="text-align: center;">v.</p> <p>NAVIENT SOLUTIONS, LLC, NAVIENT CREDIT FINANCE CORPORATION,</p> <p style="text-align: center;">Defendants.</p>	§ § § § § § § § § § §	Chapter 7 Case No. 15-35886 (DRJ) Adv. Pro. No. 16-03175 (DRJ) <u>NATIONWIDE CLASS ACTION</u>
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**DECLARATION OF AUSTIN C. SMITH
IN SUPPORT OF PLAINTIFFS’ MEMORANDUM OF LAW
IN OPPOSITION TO MOTION FOR SUMMARY JUDGMENT BY
NAVIENT SOLUTIONS, LLC AND NAVIENT CREDIT FINANCE CORPORATION**

I, Austin C. Smith, declare:

1. I presently serve as interim class co-counsel in the above-captioned action.
2. In response to Plaintiffs’ Request for Production No. 1, Defendants produced a list of all putative class members who had loans serviced by Defendants, attended non-Title IV schools/programs, and obtained a discharge on a bankruptcy petition filed in the various divisions of the United States Bankruptcy Court since October 17, 2005 (the “RFP No. 1 List”).
3. Over the last six (6) months, Defendants have continued to supplement the RFP No. 1 List with more individual consumers, and more fields of data.
4. I have reviewed all iterations of the RFP No. 1 List, have discussed its structure and data fields with my co-counsel and opposing counsel on multiple occasions, and am generally familiar with its contents.

5. The RFP No. 1 List dated and produced on November 21, 2017 contains 49,102 individual loans, and several dozen columns of data.

6. Among these data columns are, *inter alia*, fields for "SCHL_NM"; "SCHL_TITL_4_ELIG_CD"; "LOAN_STATUS"; "LOAN_OST_PRN_AMT"; and "BKR_STAT_DSC."

7. Of these 49,102 individual consumer loans, over 10,000 individuals have positive outstanding balances, ranging from \$.08 to \$178,703.00, and totaling more than \$100,000,000.00.

8. The "LOAN_STATUS" field has several options, including: "ACTIVE"; "PAID IN FULL"; "WRITE-OFF"; "FORBEARANCE"; etc.

9. The "BANK_STAT_DSC" has several options, including "DISCHARGED THROUGH BANKRUPTCY"; "PETITION FOR CHAPTER 13 BANKRUPTCY"; etc.

10. The RFP No. 1 List contains over 6,000 individual loans with positive outstanding balances and coded as both in "ACTIVE" loan status and "DISCHARGED THROUGH BANKRUPTCY."

11. The RFP No. 1 List contains over 3,000 individual loans with positive outstanding balances and coded as both in "FOREBEARANCE" and "DISCHARGED THROUGH BANKRUPTCY."

12. The remaining individual loans have a variety of other combinations of LOAN_STATUS and BANK_STAT_DSC, including "DISCHARGED THROUGH BANKRUPTCY" and "PAID IN FULL"; "ACTIVE" and "PETITION FOR CHAPTER 13 BANKRUPTCY"; etc.

13. The above calculations were generated by me, using standard Excel algorithms.


14. In connection with this case, Defendants have produced various procedures that govern the collection and servicing of educational loans. Attached as Exhibit "A" is a true and correct copy of a document titled "PCC Recovery Outbound Call Attempts Procedure" produced by Defendants in this case, bates-labeled "NAV180000185."

15. In connection with class certification discovery in this matter, Defendants have resisted producing discovery that relates to merits issues. Attached as Exhibit "B" is a true and correct copy of Defendants' Objections and Responses to Plaintiffs' Second Set of Interrogatories. Every discovery response has had an objection similar in form to the following: "Defendants object to the Interrogatories to the extent that they exceed the scope of discovery presently authorized by the Court, which is limited to class-certification issues. See Dkt. No. 134 ¶ 1." See Exhibit B at 2.

16. Defendants have represented that they will be producing documents on December 11, 2017. Attached as Exhibit "C" is a true and correct copy of Navient's Objections and Responses to Plaintiffs' Request for Production 10(A). The documents to be produced may include "documents relating to the creation or confection of any compliance manuals, training materials, or other internal documentation produced in response to RFP 10, as well as any internal analyses justifying or providing a business rationale for these materials." See Exhibit C at 12.

I make the foregoing statements based upon my personal knowledge, under penalty of perjury.

Executed on the 1st day of December, 2017.


AUSTIN C. SMITH