

Not Intended for Publication

UNITED STATES BANKRUPTCY COURT
NORTHERN DISTRICT OF INDIANA
HAMMOND DIVISION AT LAFAYETTE

IN RE: CASE NO. 14-40416)	
)	
IAN MATTHEW SCHROEDER)	
COURTNEY LOUVAIN SCHROEDER)	
)	
Debtors)	
)	
COURTNEY LOUVAIN SCHROEDER)	
)	
Plaintiff)	
)	
vs.)	PROC. NO. 15-4001
)	
AMERICAN EDUCATION SERVICES,)	
et. al.)	
)	
Defendants)	

DECISION AND ORDER DENYING MOTION

On March 17, 2015.

One would think that when a defendant denies that the plaintiff has any obligation to it whatsoever, it would be relatively easy for both counsel to stipulate to the dismissal of that defendant. Apparently not. That defendant, Navient Solutions, Inc. f/k/a Sallie Mae, has instead filed a motion to dismiss, or alternatively for summary judgment, which the court must rule upon.

As a motion to dismiss, the court may only consider the allegations in the complaint. See e.g., Burke v. 401 N. Wabash Venture, LLC, 714 F.3d 501, 505 (7th Cir. 2013) (“In general, a court may only consider the plaintiff’s complaint when ruling on a Rule 12(b)(6) motion.”). In the complaint, the plaintiff alleges that it “took out various . . . student education loans” from Sallie Mae totaling \$17,501.

As a motion for summary judgment, not only does the motion not comply with the court's local rules, N.D. Ind. L.B.R. B-7056-1(a), it is not supported by any supporting affidavits or other evidence, contrary to references to an affidavit and an Exhibit A. No such affidavit or exhibit accompanies the motion.

So, the plaintiff has effectively alleged that Navient Solutions is a creditor whose obligation should be discharged, and, although Navient denies that proposition, the court has no evidence to that effect.

Navient Solutions, Inc.'s motion to dismiss or alternatively for summary judgment is, therefore, DENIED.¹

SO ORDERED.

/s/ Robert E. Grant
Chief Judge, United States Bankruptcy Court

¹The plaintiff has not responded to the motion. However, simply because a motion for summary judgment is unopposed does not mean that it should be granted. Instead, the court is required to go beyond the lack of opposition and make the further finding that given the undisputed facts, summary judgment is proper as a matter of law. Weinco, Inc. v. Katahn Associates, Inc., 965 F.2d at 565, 568 (7th Cir. 1992). See also, Adickes v. S.H. Kress and Co., 398 U.S. 144, 161, 90 S.Ct. 1598, 1610 (1970).