

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF WISCONSIN
GREEN BAY DIVISION

BROWN COUNTY TAXPAYERS ASSOCIATION,
Plaintiff,

v.

JOSEPH R. BIDEN, JR.,
MIGUEL A. CARDONA,
RICHARD A. CORDRAY, and
U.S. DEPARTMENT OF EDUCATION,
OFFICE OF FEDERAL STUDENT AID,
Defendants.

VERIFIED COMPLAINT

The Brown County Taxpayers Association complains as follows:

INTRODUCTION

1. On August 24, 2022, President Biden announced the creation of a massive new federal program that could cost taxpayers over \$1 trillion. It's called the "One-Time Student Loan Debt Relief Plan." The problem is, for purposes of this lawsuit, that President Biden created this program unilaterally and without any legal authority from Congress. That's not how lawmaking works in America—at least since the signing of the Declaration of Independence, when the Founding Fathers complained that King George III imposed "Taxes on us without our Consent" and with them "erected a multitude of New Offices, and sent hither swarms of Officers to harass our people, and eat out their substance." President Biden's fiat here is nothing

more than a modern-day Stamp Act—a massive taxing and spending policy passed without participation of the People’s representatives.

2. In defense of this new program, Defendants propose a fig leaf: they say the trillion-dollar program is authorized by the 9/11-era HEROES Act, which allows the President to forgive loans when “necessary in connection with a war or other military operation or national emergency.” 20 U.S.C. § 1098bb(a)(1). Defendants say that because of COVID-19, all Americans are in a state of emergency, and therefore student loan debt may be wiped out with the stroke of a pen. Such an argument would be laughable if it were not so serious a violation of the Constitutional separation of powers. As confirmed by officials from the two preceding administrations, the HEROES Act does no such thing. The President is acting without any authority, and the HEROES Act is no justification.

3. Defendants plan to start spending what could ultimately be a thirteen-figure sum within the coming days unless the federal judiciary steps in and stops them. As such, Plaintiff requests an immediate injunction enjoining these officials from violating the Constitution.

THE PARTIES

4. Plaintiff is the Brown County Taxpayers Association (BCTA), an unincorporated association organized under the laws of the State of Wisconsin. BCTA’s business address is P.O. Box 684, Green Bay, Wisconsin 54305.

5. BCTA’s mission is to promote individual freedom and citizen responsibility; limited government that is fiscally responsible, transparent, and

accountable to the people; and economic policy that encourages free markets, promotes entrepreneurship, respects property rights, and expands opportunity for the people of Brown County to prosper and live free, productive lives.

6. BCTA has over 100 dues-paying members who pay federal taxes, including individuals, businesses, and organizations. As taxpayers, BCTA members are on the hook for Defendants' plan. They will pay more in taxes to support a federal treasury that will be over \$1 trillion smaller thanks to Defendants' unlawful program.

7. BCTA and its members advocate in favor of fiscally responsible federal tax policy. BCTA members are specifically concerned about the rising federal debt and that debt's impact on their future tax liability. Defendants' One-Time Student Loan Debt Relief Plan will, if enacted, negatively impact BCTA and each of its members, who will be forced to pay higher taxes and live in an America that is less prosperous, more fiscally irresponsible, and burdened by a higher federal debt. Moreover, another trillion dollars in debt added through the unilateral action of the President would force BTCA to alter its advocacy activities.

8. As an association of federal taxpayers, BTCA affirmatively alleges, on behalf of its members, that Defendants have unconstitutionally and unlawfully exercised "congressional power under the taxing and spending clause of Art. 1, § 8, of the Constitution" by forgiving student loan debt owed to the federal treasury, which is an appropriation of federal funds, 31 U.S.C. §§ 1301(a), 1341(a)(1)(A), and therefore "exceed[ed] specific constitutional limitations imposed upon the exercise" of that power, *Flast v. Cohen*, 392 U.S. 83, 102-103 (1968), by violating the Appropriations

Clause, Art. I, § 9, as informed by the Major Questions Doctrine, *West Virginia v. EPA*, 142 S. Ct. 2587 (2022), and the Equal Protection doctrine, *Miller v. Johnson*, 515 U.S. 900 (1995), by relying on an improper racially discriminatory motive.

9. Defendant Joseph R. Biden, Jr. is the President of the United States. Under the U.S. Constitution, Art. II, § 3, he must “take care that the laws be faithfully executed.” Defendant Biden is personally involved in the implementation of the One-Time Student Loan Debt Relief Plan and is sued in his official capacity.

10. Defendant Miguel A. Cardona is Secretary of Education and agency head of Defendant United States Department of Education. He is charged by President Biden with the duty to oversee and implement the One-Time Student Loan Debt Relief Plan. He is sued in his official capacity.

11. Defendant Richard A. Cordray is the Chief Operating Officer of Federal Student Aid and responsible for managing and implementing the One-Time Student Loan Debt Relief Plan. He is sued in his official capacity.

12. Defendant United States Department of Education is an agency of the United States and includes the Office of Federal Student Aid, which is responsible for the One-Time Student Loan Debt Relief Plan.

JURISDICTION AND VENUE

13. This Court has jurisdiction over this complaint under 28 U.S.C. § 1331, § 2201, and 5 U.S.C. § 702, because this case presents a substantial question of federal law.

14. This Court has authority to issue a declaratory judgment and to order injunctive relief and other relief that is necessary and proper pursuant to 28 U.S.C. §§ 2201 & 2202 and 5 U.S.C. §§ 705, 706(2).

15. Venue is appropriate in this district under 28 U.S.C. § 1391(e)(1). A substantial part of the events giving rise to this claim occurred in this district, a substantial part of the property subject to this action is situated in this district, and Plaintiff and its members reside in this district.

FACTUAL BACKGROUND

16. Defendant United States Department of Education, through various federal laws including the Higher Education Act of 1965 as amended and the Health Care and Education Reconciliation Act of 2010, holds a portfolio of student loans amounting to approximately \$1,617,300,000,000.¹ This portfolio includes Direct Loans, Federal Family Education Loans, and Perkins loans with outstanding balances, and defaulted loans under a variety of programs.

17. By operation of federal law, borrowers owe this outstanding debt to the United States Department of Education, Office of Federal Student Aid, and by extension, the United States Treasury. *See, e.g.*, 34 C.F.R. § 682.102 (providing that “[a] borrower is obligated to repay the full amount” of a loan under the FFEL Program); *id.* § 685.207 (providing that “[a] borrower is obligated to repay the full amount of a Direct Loan”).

¹ <https://studentaid.gov/data-center/student/portfolio>

18. Although borrowers owe this money to the federal government, Congress has provided several generous exceptions and provisions allowing repayment plans, reduced interest rates, loan consolidation, repayment incentives, deferment, borrower defenses, forbearance, and even loan cancellations. *See generally* 20 U.S.C. § 1087e, *see e.g.*, subsection (m) (allowing cancellation for public service employees). In short, Congress knows how to forgive loans when it wants to.

19. On August 24, 2022, Defendants announced a program broadly labeled, “Student Debt Relief Plan.” One part of this plan is called the “One-Time Student Loan Debt Relief,” under which Defendants will spend an estimated one trillion dollars without congressional authorization to cancel student loan debt for certain borrowers and up to certain amounts owed to the United States.

20. Under the plan, Defendants will forgive up to \$20,000 to federal Pell Grant recipients and up to \$10,000 in debt relief to non-Pell Grant recipients. Borrowers with loans held by the Department of Education are eligible if their individual income is less than \$125,000 or \$250,000 for households.

21. Defendants will forgive the following loans with an outstanding balance as of June 30, 2022: Federal Direct Loan Program loans, Federal Family Education Loan Program loans, Federal Perkins Loan Program loans, and any defaulted loans held by the Department of Education.

22. Defendants also announced other planned changes to monthly payment rules, the Public Service Loan Forgiveness Program, and other plans that are not

challenged in this lawsuit. This lawsuit only challenges student loan cancellation, also known as “One-Time Student Loan Debt Relief.”²

23. According to Defendants, the plan will benefit “up to 43 million borrowers, including cancelling the full remaining balance for roughly 20 million borrowers.”³

24. Defendants contend that this plan is authorized by the Higher Education Relief Opportunities for Students Act (or HEROES Act). Under this law, the Secretary of Education may “waive or modify any statutory or regulatory provision applicable to” student aid programs when “necessary in connection with a war or other military operation or national emergency.” 20 U.S.C. § 1098bb(a)(1). To qualify for relief, borrowers must reside or be employed in a “disaster area” as declared by a “Federal, State, or local official in connection with a national emergency.” Defendants contend the entire United States of America is a “disaster area” and therefore everyone living here can obtain student loan forgiveness.⁴

25. Officials from the previous two administrations have determined that the President does *not* have the power to forgive student loans in this manner. *See* U.S. Department of Education, “Memorandum to Betsy DeVos Secretary of Education Re: Student Loan Principal Balance Cancellation, Compromise, Discharge and

² <https://studentaid.gov/debt-relief-announcement/one-time-cancellation>

³ <https://www.whitehouse.gov/briefing-room/statements-releases/2022/08/24/fact-sheet-president-biden-announces-student-loan-relief-for-borrowers-who-need-it-most/>

⁴ <https://www.justice.gov/sites/default/files/opinions/attachments/2022/08/24/2022-08-23-heroes-act.pdf>

Forgiveness Authority” (Jan. 1, 2021);⁵ Gabriel Rubin, “Mass Student Debt Cancellation Legally Risky, Says Top Obama Education Lawyer,” (Wall Street Journal, May 4, 2022).⁶

26. The “One-Time Student Loan Debt Relief” plan will begin “early October 2022.” At that time, Defendants will post an application for borrowers to submit. Importantly, however, Defendants explain that “around 8 million borrowers” will have their loans forgiven automatically and without any notice. *See* U.S. Department of Education, *One-Time Student Loan Debt Relief FAQ*, (“Will any borrowers receive debt relief without applying?”).⁷ This action could happen any day.

27. According to the University of Pennsylvania’s Penn Wharton Budget Model, Defendants’ plan to forgive student loans will cost up to \$519 billion, but “total plan costs could exceed \$1 trillion.”⁸

28. As part of the justification for this plan, Defendants announced an explicit racial motivation. The Student Debt Relief Plan is motivated by a desire to “advance racial equity” and “narrow the racial wealth gap.” To achieve equity, the plan, according to the White House, is “more likely” to help “Black students,” “Black borrowers,” and “other borrowers of color.” *See* White House, Fact Sheet, *supra*. The White House favorably cited the Urban Institute, which claims that Defendants’

⁵ <https://static.politico.com/d6/ce/3edf6a3946afa98eb13c210afd7d/ogcmemohealoans.pdf>

⁶ https://www.wsj.com/articles/mass-student-debt-cancellation-legally-risky-says-top-obama-education-lawyer-11651689489?mod=politics_lead_pos6

⁷ <https://studentaid.gov/debt-relief-announcement/one-time-cancellation>

⁸ <https://budgetmodel.wharton.upenn.edu/issues/2022/8/26/biden-student-loan-forgiveness>

chosen student loan forgiveness plan will “disproportionately benefit Black borrowers” and would be “far more racially progressive than broad forgiveness.” Urban Institute, A More Targeted Approach to Student Loan Forgiveness (April 12, 2021).⁹

COUNT 1
Violation of the Constitutional Separation of Powers

29. Plaintiff incorporates all previous allegations.

30. Article I, Section 1 of the Constitution provides that “[a]ll legislative Powers herein granted shall be vested in a Congress of the United States.”

31. Article I, Section 7 of the Constitution provides that “before it become a Law,” all bills must be passed by the Senate and House of Representatives and “presented to the President of the United States” for his signature.

32. Article I, Section 8 of the Constitution grants Congress the power to pay debts, borrow money, and make all laws necessary and proper for carrying into execution the enumerated powers.

33. Article I, Section 9 provides that “[n]o Money shall be drawn from the Treasury, but in Consequence of Appropriations made by Law.”

34. By creating and implementing the One-Time Student Debt Relief Plan Defendants (all executive officials or departments) violated the Constitutional separation of powers by making laws, obligating the federal treasury, and reducing the net assets of the federal treasury without constitutional authority. In fact,

⁹ <https://www.urban.org/urban-wire/more-targeted-approach-student-loan-forgiveness>.

through this plan, Defendants have unconstitutionally exercised the taxing and spending power of Congress under Article I, Section 8.

35. Defendants have usurped the constitutional authority of Congress by unilaterally exercising Congress's taxing and spending power without authority, and then using that power in violation of specific and express constitutional prohibitions, including the Appropriations Clause, as informed by the Major Questions Doctrine, and the Equal Protection doctrine, by employing an improper racial motive as described in Count 2.

COUNT 2

Violation of the Equal Protection Doctrine

36. Plaintiff incorporates all previous allegations.

37. "The Constitution created a government dedicated to equal justice under law." *Cooper v. Aaron*, 358 U.S. 1, 19 (1958). The Constitution forbids discrimination by the federal government "against any citizen because of his race." *Gibson v. Mississippi*, 162 U.S. 565, 591 (1896); *Adarand Constructors, Inc. v. Peña*, 515 U.S. 200, 216 (1995).

38. "The liberty protected by the Fifth Amendment's Due Process Clause contains within it the prohibition against denying to any person the equal protection of the laws." *United States v. Windsor*, 570 U.S. 744, 774 (2013).

39. "[A]ll racial classifications imposed by the government must be analyzed by a reviewing court under strict scrutiny." *Johnson v. California*, 543 U.S. 499, 505 (2005) (citation omitted). "Under strict scrutiny, the government has the burden of

proving that racial classifications are narrowly tailored measures that further compelling governmental interests.” *Id.* (citation omitted).

40. Defendants created the One-Time Student Loan Debt Relief Plan with the express purpose of advancing “racial equity.” Explaining that the purpose of the program is to “narrow the racial wealth gap,” the White House explained that the program is intended to help “black students,” “black borrowers,” and “other borrowers of color.” As such, Defendants have articulated an improper racial motive in creating and implementing the One-Time Student Loan Debt Relief Plan.

41. By creating and implementing a federal program with an improper racial motive, Defendants violated the Constitution’s guarantee of equal protection of the laws, which among other things, prohibits federal spending based on race.

COUNT 3

Violation of the Administrative Procedures Act

42. Plaintiff incorporates all previous allegations.

43. Under the Administrative Procedures Act, a court must “hold unlawful and set aside agency action,” “not in accordance with law,” “contrary to constitutional ...power,” “in excess of statutory jurisdiction, authority, or limitations or short of statutory right,” or “without observance of procedure required by law.”

44. As alleged in Counts 1 and 2, the One-Time Student Loan Debt Relief Plan exceeds constitutional limitations on Congress’s spending power.

45. Additionally, the One-Time Student Loan Debt Relief Plan violates the APA by exceeding statutory authority because the cancellation plan is not authorized under the HEROES Act, 20 U.S.C. § 1098ee(2).

46. Congress did not give clear authorization of this program as required by *West Virginia v. EPA*, 142 S. Ct. 2587 (2022).

47. The One-Time Student Debt Relief Plan also constitutes a “rule” under the APA and was not promulgated in accordance with law.

RELIEF REQUESTED

Plaintiff respectfully requests that this Court:

A. Enter a temporary restraining order prohibiting Defendants from forgiving any student loans under the One-Time Student Debt Relief Plan;

B. Enter a preliminary injunction prohibiting Defendants from forgiving any student loans under the One-Time Student Debt Relief Plan;

C. Enter a declaratory judgment declaring that Defendants do not have authority to forgive loans under the One-Time Student Debt Relief Plan;

D. Enter a declaratory judgment declaring that Defendants created the One-Time Student Debt Relief Plan with an unconstitutional racial motive;

E. Enter an order permanently enjoining Defendants from forgiving student loans without clear authorization from Congress;

F. Award Plaintiff its attorney fees under 28 U.S.C. § 2412 or other relevant laws; and

G. Grant Plaintiff such other and further relief as the court deems appropriate.

Dated: October 4, 2022

WISCONSIN INSTITUTE FOR LAW & LIBERTY, INC.

/s/ Daniel P. Lennington

Richard M. Esenberg

Daniel P. Lennington

330 East Kilbourn Avenue, Suite 725

Milwaukee, WI 53202

Telephone: (414) 727-9455

Facsimile: (414) 727-6385

Rick@will-law.org

Dan@will-law.org

Attorneys for Plaintiff

VERIFICATION

1. I am the President of the Brown County Taxpayers Association (BCTA).

I have personal knowledge the activities, organization, mission, purpose, and plans of BCTA, which is a plaintiff in this lawsuit. If called upon to testify, I would competently testify as to the matters relevant to the BCTA and its claims.

3. I verify under the penalty of perjury under the laws of the United States that the factual statements in this Verified Complaint concerning BCTA are true and correct.

Dated: 10-1-22

Signature



Printed Name: Richard R. Heidel

CIVIL COVER SHEET

The JS 44 civil cover sheet and the information contained herein neither replace nor supplement the filing and service of pleadings or other papers as required by law, except as provided by local rules of court. This form, approved by the Judicial Conference of the United States in September 1974, is required for the use of the Clerk of Court for the purpose of initiating the civil docket sheet. (SEE INSTRUCTIONS ON NEXT PAGE OF THIS FORM.)

Place an "X" in the appropriate box (required): ☒ Green Bay Division ☐ Milwaukee Division

I. (a) PLAINTIFFS

Brown County Taxpayers Association

(b) County of Residence of First Listed Plaintiff **Brown**
(EXCEPT IN U.S. PLAINTIFF CASES)

(c) Attorneys (Firm Name, Address, and Telephone Number)

Rick Esenberg, Daniel Lennington, Wisconsin Institute for Law and Liberty, 330 E. Kilbourn, Suite 725, Milwaukee, WI 53202, 414-727-9455

DEFENDANTS

Joseph R. Biden, Jr., Miguel A. Cardona, Richard Cordray, and United States Department of Education, Office of Federal Student Aid

County of Residence of First Listed Defendant
(IN U.S. PLAINTIFF CASES ONLY)

NOTE: IN LAND CONDEMNATION CASES, USE THE LOCATION OF THE TRACT OF LAND INVOLVED.

Attorneys (If Known)

II. BASIS OF JURISDICTION (Place an "X" in One Box Only)

- ☐ 1 U.S. Government Plaintiff ☐ 3 Federal Question (U.S. Government Not a Party)
- ☒ 2 U.S. Government Defendant ☐ 4 Diversity (Indicate Citizenship of Parties in Item III)

III. CITIZENSHIP OF PRINCIPAL PARTIES (Place an "X" in One Box for Plaintiff and One Box for Defendant)

	PTF	DEF		PTF	DEF
Citizen of This State	<input type="checkbox"/> 1	<input type="checkbox"/> 1	Incorporated or Principal Place of Business In This State	<input type="checkbox"/> 4	<input type="checkbox"/> 4
Citizen of Another State	<input type="checkbox"/> 2	<input type="checkbox"/> 2	Incorporated and Principal Place of Business In Another State	<input type="checkbox"/> 5	<input type="checkbox"/> 5
Citizen or Subject of a Foreign Country	<input type="checkbox"/> 3	<input type="checkbox"/> 3	Foreign Nation	<input type="checkbox"/> 6	<input type="checkbox"/> 6

IV. NATURE OF SUIT (Place an "X" in One Box Only)Click here for: [Nature of Suit Code Descriptions.](#)

CONTRACT	TORTS	FORFEITURE/PENALTY	BANKRUPTCY	OTHER STATUTES
<input type="checkbox"/> 110 Insurance	PERSONAL INJURY	<input type="checkbox"/> 625 Drug Related Seizure of Property 21 USC 881	<input type="checkbox"/> 422 Appeal 28 USC 158	<input type="checkbox"/> 375 False Claims Act
<input type="checkbox"/> 120 Marine	<input type="checkbox"/> 310 Airplane	<input type="checkbox"/> 690 Other	<input type="checkbox"/> 423 Withdrawal 28 USC 157	<input type="checkbox"/> 376 Qui Tam (31 USC 3729(a))
<input type="checkbox"/> 130 Miller Act	<input type="checkbox"/> 315 Airplane Product Liability		PROPERTY RIGHTS	<input type="checkbox"/> 400 State Reapportionment
<input type="checkbox"/> 140 Negotiable Instrument	<input type="checkbox"/> 320 Assault, Libel & Slander		<input type="checkbox"/> 820 Copyrights	<input type="checkbox"/> 410 Antitrust
<input type="checkbox"/> 150 Recovery of Overpayment & Enforcement of Judgment	<input type="checkbox"/> 330 Federal Employers' Liability		<input type="checkbox"/> 830 Patent	<input type="checkbox"/> 430 Banks and Banking
<input type="checkbox"/> 151 Medicare Act	<input type="checkbox"/> 340 Marine		<input type="checkbox"/> 835 Patent - Abbreviated New Drug Application	<input type="checkbox"/> 450 Commerce
<input type="checkbox"/> 152 Recovery of Defaulted Student Loans (Excludes Veterans)	<input type="checkbox"/> 345 Marine Product Liability		<input type="checkbox"/> 840 Trademark	<input type="checkbox"/> 460 Deportation
<input type="checkbox"/> 153 Recovery of Overpayment of Veteran's Benefits	<input type="checkbox"/> 350 Motor Vehicle	LABOR	<input type="checkbox"/> 880 Defend Trade Secrets Act of 2016	<input type="checkbox"/> 470 Racketeer Influenced and Corrupt Organizations
<input type="checkbox"/> 160 Stockholders' Suits	<input type="checkbox"/> 355 Motor Vehicle Product Liability	<input type="checkbox"/> 710 Fair Labor Standards Act	SOCIAL SECURITY	<input type="checkbox"/> 480 Consumer Credit (15 USC 1681 or 1692)
<input type="checkbox"/> 190 Other Contract	<input type="checkbox"/> 360 Other Personal Injury	<input type="checkbox"/> 720 Labor/Management Relations	<input type="checkbox"/> 861 HIA (1395ff)	<input type="checkbox"/> 485 Telephone Consumer Protection Act
<input type="checkbox"/> 195 Contract Product Liability	<input type="checkbox"/> 362 Personal Injury - Medical Malpractice	<input type="checkbox"/> 740 Railway Labor Act	<input type="checkbox"/> 862 Black Lung (923)	<input type="checkbox"/> 490 Cable/Sat TV
<input type="checkbox"/> 196 Franchise		<input type="checkbox"/> 751 Family and Medical Leave Act	<input type="checkbox"/> 863 DIWC/DIWW (405(g))	<input type="checkbox"/> 850 Securities/Commodities/Exchange
		<input type="checkbox"/> 790 Other Labor Litigation	<input type="checkbox"/> 864 SSID Title XVI	<input type="checkbox"/> 890 Other Statutory Actions
REAL PROPERTY	CIVIL RIGHTS	<input type="checkbox"/> 791 Employee Retirement Income Security Act	<input type="checkbox"/> 865 RSI (405(g))	<input type="checkbox"/> 891 Agricultural Acts
<input type="checkbox"/> 210 Land Condemnation	<input checked="" type="checkbox"/> 440 Other Civil Rights	IMMIGRATION	FEDERAL TAX SUITS	<input type="checkbox"/> 893 Environmental Matters
<input type="checkbox"/> 220 Foreclosure	<input type="checkbox"/> 441 Voting	<input type="checkbox"/> 462 Naturalization Application	<input type="checkbox"/> 870 Taxes (U.S. Plaintiff or Defendant)	<input type="checkbox"/> 895 Freedom of Information Act
<input type="checkbox"/> 230 Rent Lease & Ejectment	<input type="checkbox"/> 442 Employment	<input type="checkbox"/> 465 Other Immigration Actions	<input type="checkbox"/> 871 IRS—Third Party 26 USC 7609	<input type="checkbox"/> 896 Arbitration
<input type="checkbox"/> 240 Torts to Land	<input type="checkbox"/> 443 Housing/Accommodations			<input type="checkbox"/> 899 Administrative Procedure Act/Review or Appeal of Agency Decision
<input type="checkbox"/> 245 Tort Product Liability	<input type="checkbox"/> 445 Amer. w/Disabilities - Employment			<input type="checkbox"/> 950 Constitutionality of State Statutes
<input type="checkbox"/> 290 All Other Real Property	<input type="checkbox"/> 446 Amer. w/Disabilities - Other			
	<input type="checkbox"/> 448 Education			
	PRISONER PETITIONS			
	Habeas Corpus:			
	<input type="checkbox"/> 463 Alien Detainee			
	<input type="checkbox"/> 510 Motions to Vacate Sentence			
	<input type="checkbox"/> 530 General			
	<input type="checkbox"/> 535 Death Penalty			
	Other:			
	<input type="checkbox"/> 540 Mandamus & Other			
	<input type="checkbox"/> 550 Civil Rights			
	<input type="checkbox"/> 555 Prison Condition			
	<input type="checkbox"/> 560 Civil Detainee - Conditions of Confinement			

V. ORIGIN (Place an "X" in One Box Only)

- ☒ 1 Original Proceeding ☐ 2 Removed from State Court ☐ 3 Remanded from Appellate Court ☐ 4 Reinstated or Reopened ☐ 5 Transferred from Another District (specify) ☐ 6 Multidistrict Litigation - Transfer ☐ 8 Multidistrict Litigation - Direct File

VI. CAUSE OF ACTION

Cite the U.S. Civil Statute under which you are filing (Do not cite jurisdictional statutes unless diversity):

5 U.S.C. § 702, Appropriations Clause and Equal Protection of the US Constitution

Brief description of cause:

Challenging illegal creation of the One-Time Student Loan Debt Relief Plan

VII. REQUESTED IN COMPLAINT:

☐ CHECK IF THIS IS A CLASS ACTION UNDER RULE 23, F.R.Cv.P. **DEMAND \$**

CHECK YES only if demanded in complaint:

JURY DEMAND: ☐ Yes ☒ No**VIII. RELATED CASE(S) IF ANY**

(See updated instructions):

JUDGE

DOCKET NUMBER

DATE

10/04/2022

SIGNATURE OF ATTORNEY OF RECORD

Daniel P. Lennington

FOR OFFICE USE ONLY

RECEIPT #

AMOUNT

APPLYING IFP

JUDGE

MAG. JUDGE

INSTRUCTIONS FOR ATTORNEYS COMPLETING CIVIL COVER SHEET FORM JS 44**Authority For Civil Cover Sheet**

The JS 44 civil cover sheet and the information contained herein neither replaces nor supplements the filings and service of pleading or other papers as required by law, except as provided by local rules of court. This form, approved by the Judicial Conference of the United States in September 1974, is required for the use of the Clerk of Court for the purpose of initiating the civil docket sheet. Consequently, a civil cover sheet is submitted to the Clerk of Court for each civil complaint filed. The attorney filing a case should complete the form as follows:

- I.(a) Plaintiffs-Defendants.** Enter names (last, first, middle initial) of plaintiff and defendant. If the plaintiff or defendant is a government agency, use only the full name or standard abbreviations. If the plaintiff or defendant is an official within a government agency, identify first the agency and then the official, giving both name and title.
- (b) County of Residence.** For each civil case filed, except U.S. plaintiff cases, enter the name of the county where the first listed plaintiff resides at the time of filing. In U.S. plaintiff cases, enter the name of the county in which the first listed defendant resides at the time of filing. (NOTE: In land condemnation cases, the county of residence of the "defendant" is the location of the tract of land involved.)
- (c) Attorneys.** Enter the firm name, address, telephone number, and attorney of record. If there are several attorneys, list them on an attachment, noting in this section "(see attachment)".
- II. Jurisdiction.** The basis of jurisdiction is set forth under Rule 8(a), F.R.Cv.P., which requires that jurisdictions be shown in pleadings. Place an "X" in one of the boxes. If there is more than one basis of jurisdiction, precedence is given in the order shown below.
 United States plaintiff. (1) Jurisdiction based on 28 U.S.C. 1345 and 1348. Suits by agencies and officers of the United States are included here.
 United States defendant. (2) When the plaintiff is suing the United States, its officers or agencies, place an "X" in this box.
 Federal question. (3) This refers to suits under 28 U.S.C. 1331, where jurisdiction arises under the Constitution of the United States, an amendment to the Constitution, an act of Congress or a treaty of the United States. In cases where the U.S. is a party, the U.S. plaintiff or defendant code takes precedence, and box 1 or 2 should be marked.
 Diversity of citizenship. (4) This refers to suits under 28 U.S.C. 1332, where parties are citizens of different states. When Box 4 is checked, the citizenship of the different parties must be checked. (See Section III below; **NOTE: federal question actions take precedence over diversity cases.**)
- III. Residence (citizenship) of Principal Parties.** This section of the JS 44 is to be completed if diversity of citizenship was indicated above. Mark this section for each principal party.
- IV. Nature of Suit.** Place an "X" in the appropriate box. If there are multiple nature of suit codes associated with the case, pick the nature of suit code that is most applicable. Click here for: [Nature of Suit Code Descriptions](#).
- V. Origin.** Place an "X" in one of the seven boxes.
 Original Proceedings. (1) Cases which originate in the United States district courts.
 Removed from State Court. (2) Proceedings initiated in state courts may be removed to the district courts under Title 28 U.S.C., Section 1441.
 Remanded from Appellate Court. (3) Check this box for cases remanded to the district court for further action. Use the date of remand as the filing date.
 Reinstated or Reopened. (4) Check this box for cases reinstated or reopened in the district court. Use the reopening date as the filing date.
 Transferred from Another District. (5) For cases transferred under Title 28 U.S.C. Section 1404(a). Do not use this for within district transfers or multidistrict litigation transfers.
 Multidistrict Litigation – Transfer. (6) Check this box when a multidistrict case is transferred into the district under authority of Title 28 U.S.C. Section 1407.
 Multidistrict Litigation – Direct File. (8) Check this box when a multidistrict case is filed in the same district as the Master MDL docket. **PLEASE NOTE THAT THERE IS NOT AN ORIGIN CODE 7.** Origin Code 7 was used for historical records and is no longer relevant due to changes in statute.
- VI. Cause of Action.** Report the civil statute directly related to the cause of action and give a brief description of the cause. **Do not cite jurisdictional statutes unless diversity.** Example: U.S. Civil Statute: 47 USC 553 Brief Description: Unauthorized reception of cable service.
- VII. Requested in Complaint.** Class Action. Place an "X" in this box if you are filing a class action under Rule 23, F.R.Cv.P.
 Demand. In this space enter the actual dollar amount being demanded or indicate other demand, such as a preliminary injunction.
 Jury Demand. Check the appropriate box to indicate whether or not a jury is being demanded.
- VIII. Related Cases.** This section of the JS 44 is used to reference related pending and previously filed cases, if any. If there are related cases, insert the docket numbers and the corresponding judge names for such cases and file a Notice of Related Action pursuant to Civil L.R. 3(b).

Date and Attorney Signature. Date and sign the civil cover sheet.

Civil Action No.

