

SO ORDERED.

SIGNED this 30 day of July, 2024.



A handwritten signature in blue ink, reading "David M. Warren".

David M. Warren
United States Bankruptcy Judge

**UNITED STATES BANKRUPTCY COURT
EASTERN DISTRICT OF NORTH CAROLINA
RALEIGH DIVISION**

IN RE:

CASE NO. 19-01656-5-DMW

LEIGH CHEEK RAYNOR

CHAPTER 13

DEBTOR

LEIGH CHEEK RAYNOR,

PLAINTIFF

vs.

**EDUCATIONAL CREDIT
MANAGEMENT CORPORATION,**

DEFENDANT

ADVERSARY PROCEEDING NO.

23-00109-5-DMW

ORDER DENYING APPROVAL OF CONSENT JUDGMENT

This matter comes before the court upon the Motion to Approve Consent Judgment filed by Educational Credit Management Corporation (“Defendant”) on June 25, 2024. The court conducted a hearing on July 23, 2024 in Raleigh, North Carolina. Lisa P. Sumner, Esq. appeared for the Defendant, and Philip Sasser, Esq. appeared for Leigh Cheek Raynor (“Plaintiff”).

The Plaintiff initiated this adversary proceeding to seek a determination that certain student loan debts owed to the Defendant should be excepted from her anticipated Chapter 13

discharge pursuant to 11 U.S.C. § 523(a)(8). Based on discovery between the parties, the Defendant agrees with the Plaintiff's allegations that repayment of the debts would impose an undue hardship on the Plaintiff and her spouse, so the Defendant is requesting the court to approve and enter a Consent Judgment which declares the debts dischargeable under 11 U.S.C. § 508(a). Despite the Defendant's concession, the court must make an independent finding that the debts should be excepted from discharge, applying the *Brunner* test adopted by the United States Court of Appeals for the Fourth Circuit. *See Educ. Credit Mgmt. Corp. v. Frushour (In re Frushour)*, 433 F.3d 393 (4th Cir. 2005) (following *Brunner v. N.Y. State Higher Educ. Servs. Corp.*, 831 F.2d 395 (2d Cir. 1987)). The Plaintiff will need to present evidence at trial in support of dischargeability for the court to grant this relief; now therefore,

It is ORDERED, ADJUDGED, and DECREED that the Motion to Approve Consent Judgment be, and hereby is, denied.

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