

IN THE SUPREME COURT OF THE STATE OF MONTANA  
Case No. DA 19-0510

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JAMES REAVIS,

Plaintiff and Appellant,

vs.

PENNSYLVANIA HIGHER EDUCATION  
ASSISTANCE AGENCY d/b/a FEDLOAN SERVICING,

Defendant and Appellee.

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**BRIEF OF AMICUS CURIAE VETERANS EDUCATION SUCCESS**

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On Appeal from the Montana First Judicial District Court,  
Lewis and Clark, District Court Cause No.: BDV-2018-833  
The Honorable Michael F. McMahon Presiding

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## **INTEREST OF *AMICUS CURIAE***

Veterans Education Success is a non-profit organization with a mission to advance higher education success for veterans, servicemembers, and military families, and to protect the integrity and promise of federal education programs for veterans and servicemembers, including the Public Service Loan Forgiveness (“PSLF”) Program. Veterans Education Success engages in advocacy on behalf of veterans and servicemembers before Congress and federal agencies as well as in state and federal courts and provides free legal assistance to veterans. Veterans Education Success is committed to advancing higher education success for veterans, service members, and military families, and to protect the promise of the G.I. Bill and other federal education programs.

## **SUMMARY OF THE ARGUMENT**

This case will determine whether servicemembers and veterans have any legal recourse against student loan servicing companies that inflict tens of thousands of dollars of unnecessary costs on them by misrepresenting the PSLF Program’s requirements and the borrowers’ status. The PSLF Program serves as an essential recruiting tool for the U.S. Military, as well as the foundation for the financial lives of soldiers, sailors, airmen and women, and others serving Montana and this country. When those serving our county are denied their right to PSLF due to their loan servicers’ misrepresentations, both fundamental equity and Montana

law require that the injured Montanan have redress in this State's courts. Unfortunately, the data suggests that misinformation is rife, and only about 1% of those submitting applications for PSLF have received relief.

This case presents the question whether Congress intended to foreclose any legal remedy for servicemembers, veterans, and those serving them – weakening the Armed Forces and the support network for military families, veterans, and survivors – by preempting traditional Montana law protecting its residents from misrepresentations by student loan servicers. The answer is no. PHEAA can point to no “compelling evidence” that Congress intended servicemembers and veterans to bear the costs of servicer misrepresentations about the PSLF Program by preempting longstanding Montana law. Instead, this Court should allow servicemembers, veterans, and other Montanans to make their cases on the merits and place the cost of misrepresentations where they belong: on the negligent servicer.

## **ARGUMENT**

### **I. PUBLIC SERVICE LOAN FORGIVENESS PROMOTES NATIONAL SECURITY BY REWARDING ACTIVE DUTY SERVICEMEMBERS WHO DEDICATE THEIR CAREERS TO SERVING AND PROTECTING OUR COUNTRY.**

Congress has long recognized the essential link between higher education and the ability of this nation's armed forces to meet the security challenges posed by an ever-changing world. Spurred by the Soviet Union's launch of Sputnik,



Congress passed the National Defense Education Act of 1958 (“NDEA”), PUB. LAW NO. 85-864 (Sept. 2, 1958), to supply a cadre of servicemembers with advanced knowledge in math, science, and foreign language fields necessary to compete with the Soviet Union. Congress specifically found that “the security of the Nation requires the fullest development of the mental resources and technical skills of its young men and women,” and therefore determined to “provide substantial assistance in various forms to individuals, and to States and their subdivisions, in order to ensure trained manpower of sufficient quality and quantity to meet the national defense needs of the United States.” *Id.* at Sec. 101. In more recent years, Congress has funded Tuition Assistance programs for active duty military and the GI Bill for veterans. In many cases, veterans also take out student loans to cover the gap between the amount of tuition and the amount the GI Bill or Tuition Assistance will cover. For example, in the most recent survey data available from the US Department of Education, among veterans who earned bachelor’s degrees in 2015-16, 57% who were using the GI Bill took out student loans, as did 73% of veterans who were not using the GI Bill (either because they failed to meet the requirements to earn the GI Bill or because they had already used up their GI Bill allocation).<sup>1</sup>

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<sup>1</sup> Veterans Education Success, “Annual and Cumulative Student Loan Debt Among

The Higher Education Act of 1965 (the “HEA”) was similarly intended “to provide financial assistance for students in postsecondary and higher education.” PUB. LAW No. 89-329 (Nov. 8, 1965). The HEA opened doors to higher education for many Americans, and its loan programs became the primary means for many students to finance their educations – both veterans and non-veteran students. Unfortunately, the escalating cost of college – and the resulting burden of student loan debt – fell heaviest on students of modest working- and middle-class backgrounds. Student loan debt often made military or other public service difficult for these graduates, who could not afford to pass up higher private-sector wages necessary to keep up with their monthly payments.

The PSLF Program, signed into law by President George W. Bush, was a common-sense, bipartisan response to this problem. PUB. LAW 110–84, Sec. 401 (Sept. 27, 2007). PSLF allows graduates to serve their country – foregoing higher wages in the private sector – without sacrificing the rest of the American dream on the altar of their student loan payments. To qualify for PSLF, a borrower must make 120 monthly payments (1) on a Direct Loan, 20 U.S.C. § 1087e (m)(1); (2) under a qualifying repayment plan, 20 U.S.C. § 1087e(m)(1)(A); while (3) working

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Veterans Using and Not Using GI Bill Benefits” (2019), *available at* <https://vetsedsuccess.org/annual-and-cumulative-student-loan-debt-among-veterans-using-and-not-using-gi-bill-benefits/> (last accessed December 12, 2019).

at a qualifying “public interest job” – which specifically includes military service. 20 U.S.C. § 1087e(m)(3)(B). The PSLF Program both harnesses the knowledge and enthusiasm of graduates from this country’s world-class universities to benefit the Armed Services and promotes the interests of active duty servicemembers.

First, as the Department of Defense has explained, PSLF is “an invaluable recruiting and retention tool from the arsenals of the U.S. Armed Forces,”<sup>2</sup> and warned that

[e]limination or restriction of the PSLF Program would adversely affect anyone considering public service who financed his or her own education - both undergraduate and graduate degrees - disproportionately impacting those in specialty fields, such as the Judge Advocate General Corps, for whom graduate degrees are required. With the increasing costs of higher education, recruitment and retention is increasingly difficult. Moreover, as the economy grows, the opportunity for much higher paying positions in the civilian sector makes it increasingly difficult for the Armed Services to compete for quality specialty personnel.<sup>3</sup>

In addition to the overall Defense Department’s strong policy position in favor of Public Service Loan Forgiveness, the U.S. Navy also confirmed that the

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<sup>2</sup> Department of Defense Information Paper, *HR4508, the Promoting Real Opportunity, Success, and Prosperity through Education Reform (PROSPER) Act* (Jan. 10, 2018), available at [https://www.insidehighered.com/sites/default/server\\_files/media/Department-of-Defense-on-PROSPER-Act.pdf](https://www.insidehighered.com/sites/default/server_files/media/Department-of-Defense-on-PROSPER-Act.pdf) (last accessed December 11, 2019).

<sup>3</sup> *Id.*

availability of PSLF has “a significant impact on recruiting and retention.”<sup>4</sup> More than two-thirds of the Navy Judge Advocate General’s Corps intend to take advantage of PSLF, and 100% of entry-level Judge Advocates “report they would be more likely to leave active duty if PSLF were eliminated.”<sup>5</sup> Servicemembers in the Naval Nuclear Propulsion Program, Chaplain Corps, and Health Professions also participate in PSLF.<sup>6</sup>

Second, PSLF serves as a well-deserved and much-needed reward for active duty servicemembers. An analysis of data provided by the Government Accountability Office reveals that more than 200,000 servicemembers collectively owe more than \$2.9 billion in student debt.<sup>7</sup> Because military service is a public service job, each of these servicemembers is eligible to participate in PSLF. Indeed, one analysis of data from the U.S. Departments of Education and Defense

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<sup>4</sup> Department of Defense Information Paper, p. 2 (Nov. 14, 2017), available at <http://studentveterans.org/images/pdf/will/Navy-on-PROSPER-Act.pdf> (last accessed December 11, 2019).

<sup>5</sup> *Id.* at 1.

<sup>6</sup> *Id.* at 2.

<sup>7</sup> Prepared Remarks of Seth Frotman, Assistant Director and Student Loan Ombudsman for the Consumer Financial Protection Bureau, Judge Advocate General’s Legal Center and School at Charlottesville, Virginia (October 17, 2017) (citing Government Accountability Office (GAO), *Student Loans: Oversight of Servicemembers’ Interest Rate Cap Could Be Strengthened*, GAO-17-4 (Nov. 15, 2016)), available at [https://files.consumerfinance.gov/f/documents/201710\\_cfpb\\_Frotman-Remarks-JAG-School.pdf](https://files.consumerfinance.gov/f/documents/201710_cfpb_Frotman-Remarks-JAG-School.pdf) (last accessed December 11, 2019).

suggest that as of October 2017, almost 6,800 active duty servicemembers had submitted initial paperwork for the PSLF Program.<sup>8</sup> Forgiveness of their federal student loans provides financial freedom for these servicemembers to provide for their families and to pursue the American Dream.

PSLF's usefulness to the Armed Forces as a recruiting and retention tool will be lost if current servicemembers and students considering military service observe senior servicemembers denied the promised loan forgiveness as a result of servicer misrepresentations or miscalculation of qualifying payments. And the betrayal of our commitment to these servicemembers is compounded if they are also then denied any legal or equitable recourse for that misconduct.

## **II. PUBLIC SERVICE LOAN FORGIVENESS BENEFITS VETERANS, MILITARY FAMILIES, AND SURVIVORS.**

In addition to directly benefitting the Armed Forces and active duty servicemembers, PSLF provides downstream benefits to veterans, military families, and survivors – groups for which our society owes a great debt and to whom we as a nation bear a duty to care for and support. After serving our country in the military, many veterans are called to continue serving their country through

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<sup>8</sup> Ben Werner, *Navy Recruiting Could be Hurt if Popular School Loan Forgiveness Program is Canceled*, USNI News (October 30, 2017), available at <https://news.usni.org/2017/10/30/navy-recruiting-hurt-popular-school-loan-forgiveness-program-canceled> (last accessed December 11, 2019).

government service or employment at non-profit community and veterans service organizations. The U.S. Department of Veterans Affairs, for example, is staffed by many veterans. The PSLF Program encourages veterans to transfer the leadership and other skills they acquired during military service to new careers in public service as Veterans Hospital nurses and administrators, teachers, first responders, law enforcement officials, and other sorely needed professionals – especially those serving their fellow veterans, military families, and survivors.

PSLF also strengthens non-profit organizations like The American Legion and Veterans Education Success that are specifically dedicated to supporting veterans, military families, and survivors. Many employees of these non-profits work long hours for low pay to serve their fellow veterans and military families and could not afford to do so without PSLF. And because PSLF provides non-profit employees with financial flexibility and a reward for a decade of service, the non-profits are free to spend more on direct services to those in need.

When these veterans and those serving them are denied PSLF due to servicemiserrepresentations, the entire support system for our military, veterans, family members, and survivors is harmed.

### **III. SERVICERS' MISREPRESENTATIONS ABOUT THE PSLF PROGRAM AND MISCALCULATION OF QUALIFYING PAYMENTS HARM SERVICEMEMBERS AND VETERANS.**

#### **A. The Consequences of Servicer Misconduct Are Dire.**

The stakes of qualifying for PSLF are high for servicemembers and veterans. For example, the U.S. Navy reports that “[t]he average debt reported by Navy Judge Advocates in the entry pay grade of O-2 is increasing annually, and currently averages \$167,999.”<sup>9</sup> Missing out on PSLF discharge of these large sums is financially devastating.

Servicemembers and veterans working at veteran- and military-focused non-profits satisfy the “public interest job” criteria and must therefore ensure that their 120 payments are made on a Direct Loan, and pursuant to a qualifying income-driven repayment (“IDR”) plan. One intuitive way for servicemembers and veterans to make sure their payments count toward PSLF is to call their loan servicer and ask. Indeed, loan servicers like PHEAA explicitly invite servicemembers, veterans, and other borrowers to call with questions about managing their loans.<sup>10</sup> Borrowers also necessarily rely upon servicers like PHEAA to accurately count their qualifying payments.

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<sup>9</sup> Department of Defense Information Paper, *supra* note 3, at 1.

<sup>10</sup> See <https://myfedloan.org/borrowers/special-programs/pslf> (“We are here to help you with every step of the process. Contact one of our Public Service Loan

Servicemembers and veterans suffer real financial harm when a student loan servicer misrepresents the eligibility of his or her loan(s) or payments for PSLF, or miscounts qualifying payments. Because eligibility for PSLF is delayed when the servicemember or veteran has made payments on a non-qualifying Federal Family Education Loan Program (FFELP) loan (or makes non-qualifying payments under a non-qualifying repayment plan like a “graduated” or “extended” plan), he or she must make *additional* monthly payments in order to qualify. Every such additional payment represents money – often hundreds of dollars – out of his or her family’s monthly budget.

Servicemembers and veterans may also be effectively locked into their current jobs for the additional time required to qualify for PSLF, even if they would rather transition to a job in the private sector, use the leadership skills developed in the armed services to be an entrepreneur by starting a new business and creating jobs for others, or be a stay-at-home parent. The lack of freedom to change careers is particularly burdensome for active duty servicemembers, for whom remaining enlisted may result in an additional combat tour or other deployment and the attendant dangers, separation from family, and other difficulties.

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Forgiveness specialists at 855-265-4038 for more information.”) (last accessed December 11, 2019).



Other servicemembers and veterans faced with years of additional payments to qualify for PSLF may be forced to leave the military or other public service career in order to pay their (unforgiven) federal student loans while also providing for their families. This is precisely the result that President Bush and Congress sought to avoid by creating PSLF, and the worst-case scenario for recruiting and retention of highly qualified specialists by the Armed Services.

Active duty servicemembers who miss out on PSLF could also be at risk of losing their security clearance and be involuntarily discharged from – that is, kicked out of – the military if the amount of their debt becomes a security risk in the eyes of the Pentagon. These voluntary and involuntary separations harm both servicemembers and the Armed Forces. As the Pentagon has explained, between 4,640 and 7,580 servicemembers each year “are involuntarily separated where financial distress is a contributing factor,” and “[e]ach separation of a Service member is estimated to cost the Department [of Defense] \$58,250.”<sup>11</sup> Permitting servicemembers redress against their loan servicers that harm them through misrepresentations about PSLF or miscalculation of qualifying payments will help them remain enlisted, deter misrepresentations to other servicemembers, and avoid

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<sup>11</sup> Department of Defense, *Limitations on Terms of Consumer Credit Extended to Service Members and Dependents; Final Rule*, 80 Fed. Reg. 43559, 43592 (July 22, 2015).

the significant costs to the Department of Defense associated with separation. Unfortunately, servicemembers and veterans have almost certainly suffered these life-altering harms.

**B. Servicemembers, Veterans, and Those Serving Them Have Almost Certainly Been Exposed to Misrepresentations about PSLF by Loan Servicers.**

Although PHEAA and other servicers encourage servicemembers to call them for assistance, those servicers have often struggled to follow through on promises to help. For example, a 2015 report concluded that servicers “may be mismanaging benefits awarded under [another student loan benefit program known as] the Department of Defense Student Loan Repayment Program (SLRP), causing confusion and applying payments in ways that increase costs for military borrowers.”<sup>12</sup>

Servicers’ mismanagement of benefits likely extends to the PSLF Program. For example, PHEAA officials have admitted that “their staff are sometimes unaware of important policy clarifications.”<sup>13</sup> Meanwhile, Department of

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<sup>12</sup> Hollister Petraeus and Seth Frotman, *Overseas & Underserved: Student Loan Servicing and the Cost to Our Men and Women in Uniform*, p. 15 (CFPB 2015), available at [https://files.consumerfinance.gov/f/201507\\_cfpb\\_overseas-underserved-student-loan-servicing-and-the-cost-to-our-men-and-women-in-uniform.pdf](https://files.consumerfinance.gov/f/201507_cfpb_overseas-underserved-student-loan-servicing-and-the-cost-to-our-men-and-women-in-uniform.pdf) (last accessed December 11, 2019).

<sup>13</sup> U.S. Government Accountability Office, *Public Service Loan Forgiveness: Education Needs to Provide Better Information for the Loan Servicer and*

Education officials “said they plan to create a comprehensive PSLF servicing manual but have no timeline for doing so.”<sup>14</sup>

Finally, actual PSLF discharge results to date are dismal. The Department of Education reported that as of June 30, 2019, it had processed 102,051 applications for PSLF discharge, but had rejected 100,835 of them, and had processed PSLF discharges for only 845 borrowers;<sup>15</sup> in other words, more than 98.8% of PSLF applications were rejected. That 98.8% (and others who have not yet applied) likely includes servicemembers and veterans who were misled about whether their monthly payments qualified; others have likely delayed applying for PSLF discharge due to servicer miscalculations of qualifying payments.

We, the United States, made a commitment to our servicemembers, veterans, and other public servants: give a decade of service, and we will make sure that such service is financially feasible by discharging the remaining balance of your eligible federal student loans. Where a student loan servicer deprives a servicemember or veteran of this life-changing benefit by misrepresenting eligibility criteria or miscalculating qualifying payments, traditional state consumer

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*Borrowers*, GAO-18-547, p. 16 (Sept. 2018), available at <https://www.gao.gov/assets/700/694506.pdf> (last accessed December 11, 2019).

<sup>14</sup> *Id.* at 24.

<sup>15</sup> Data available at <https://studentaid.ed.gov/sa/about/data-center/student/loan-forgiveness/pslf-data> (last accessed December 11, 2019).

protection laws provide servicemembers, veterans, and other public servants with the tools to hold their servicers accountable.

**IV. CONGRESS DID NOT INTEND TO PREEMPT WELL-ESTABLISHED MONTANA LAW AND LEAVE SERVICEMEMBERS AND VETERANS WITHOUT A LEGAL REMEDY WHEN A SERVICER MISREPRESENTATION OR MISCALCULATION DESTROYS THE FOUNDATIONS OF THEIR FINANCIAL LIVES.**

**A. The Presumption Against Preemption Applies with Particular Force to CPA Claims Arising from Servicer Misrepresentations and Miscalculations.**

Both this Court and the U.S. Supreme Court find preemption of state law only where Congressional intent is unmistakable:

In all preemption cases, and particularly in those in which Congress has “legislated ... in a field which the States have traditionally occupied,” ... [courts] “start with the assumption that the historic police powers of the States were not to be superseded by the Federal Act unless that was the clear and manifest purpose of Congress.”

*Wyeth v. Levine*, 555 U.S. 555, 565 (2009) (quoting *Medtronic, Inc. v. Lohr*, 518 U.S. 470, 485 (1996)). *Fenno v. Mountain W. Bank*, 345 Mont. 161, 164, 192 P.3d 224, 227 (2008) (same). That presumption against preemption is even stronger here.

Consumer protection is a traditional field of state regulation. *E.g., Florida Lime & Avocado Growers, Inc. v. Paul*, 373 U.S. 132, 146 (1963) (regulation “designed to prevent the deception of consumers” was within police powers); *Castro v. Collecto, Inc.*, 634 F.3d 779, 784–85 (5th Cir. 2011) (noting that “states

have traditionally governed matters regarding ... consumer protections”). And “[b]ecause consumer protection law is a field traditionally regulated by the states, *compelling evidence of an intention to preempt* is required in this area.” *Aguayo v. U.S. Bank*, 653 F.3d 912, 917 (9th Cir. 2011) (quoting *Gen. Motors Corp. v. Abrams*, 897 F.2d 34, 41-42 (2d Cir. 1990)) (emphasis added).

The Legislature enacted the Montana Unfair Trade Practices and Consumer Protection Act (the “CPA”) in 1973. Like many “Little FTC Acts” across the country, the CPA outlaws “unfair or deceptive acts or practices in the conduct of any trade or commerce,” M.C.A. § 30-14-103, codifying the central rule by which all market participants must abide: Treat people fairly and don’t use deception as a business strategy. These tenets are inextricably tied to Montana’s public policy,<sup>16</sup> and central to a properly functioning market and society.

The CPA’s central place in Montana’s public policy is also reflected in its robust enforcement regime. The CPA authorizes the Department of Justice to bring actions to restrain prohibited acts, M.C.A. § 30-14-111, and authorizes restitution, the appointment of a receiver, and even the revocation of authorization to conduct business in Montana. M.C.A. § 30-14-131. It also creates a cause of

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<sup>16</sup> See *Rohrer v. Knudson*, 349 Mont. 197, 205, 203 P.3d 759, 764 (2009) (“We hold as a matter of law that an unfair act or practice is one which offends established public policy and which is either immoral, unethical, oppressive, unscrupulous or substantially injurious to consumers.”).

action for individual consumers like Mr. Reavis who are harmed by unfair or deceptive practices. M.C.A. § 30-14-133(1).

Mr. Reavis' claim that PHEAA miscalculated his PSLF-qualifying payments (and then made affirmative misrepresentations to him about those payments), Complaint, ¶ 34, cannot reasonably be read as a preempted state-law "disclosure" claim. See 20 U.S.C. § 1098g. Moreover, that claim is fully consistent with Congress' purpose in implementing the PSLF Program, and therefore supports, rather than conflicts with, the HEA.

**B. Mr. Reavis' CPA and Common Law Claims "Complement and Reinforce" the HEA.**

Courts across the country recognize that "many provisions of state consumer protection statutes do not conflict with the HEA or its regulations, and many state law provisions ... actually complement and reinforce the HEA." *Cliff v. Payco Gen. Am. Credits, Inc.*, 363 F.3d 1113, 1130 (11th Cir. 2004). The *Cliff* court held that a Florida statute prohibiting debt collectors from asserting non-existent legal rights did not pose an obstacle to accomplishment of HEA-mandated collection activities. *Id.* at 1127-31. The West Virginia Supreme Court agreed, explaining that

We find the Eleventh Circuit's reasoning compelling. There would appear to be nothing which would conflict with or frustrate the requirements and purposes of the HEA and [Federal Family Education Loan Program (FFELP)] by also precluding under State law, making a "false representation" about the "character, extent or amount" of a debt. While certain due diligence collection activities are required by

the FFELP regulations, making “false representations” about the nature of a debt is certainly not one of them.

*Adams v. Pa. Higher Educ. Assistance Agency*, 787 SE 2d 583, 591-92 (W. Va. Sup. Ct. 2016). The Ninth Circuit has also explained that state law claims that “seek to buttress the FFELP framework” do not conflict with the HEA. *Chae*, 593 F.2d at 946.

This Court has similarly refused to find preemption where Montana law is consistent with federal law. For example, in *Fenno*, 345 Mont. at 168, the Court refused to find that Montana’s Wrongful Discharge Employment Act’s anti-retaliation clause conflicted with the National Bank Act, which generally gives national banks the power to dismiss bank officers at their pleasure. The *Fenno* Court reasoned that “[p]reemption cannot ‘shield [a] defendant bank from tort liability for dismissing an employee in violation of a state public policy which is consistent with the federal statute’s purpose.’” *Id.* at 168 (quoting *Sargent v. Central Nat. Bank & Trust Co.*, 809 P.2d 1298 (Okla.1991)).

Here, Montana’s common law and statutory prohibition on misrepresentations – such as those made by PHEAA to Mr. Reavis – is fully consistent with and “buttresses” the HEA and the PSLF Program. An overwhelming bipartisan majority in Congress – including Montana’s entire Congressional delegation – intended servicemembers, veterans, and other Montanans working in qualifying jobs to receive federal student loan debt

forgiveness after ten years of payments. Montana law simply provides a remedy where misrepresentations by companies like PHEAA deprive its residents of important benefits that Congress sought to provide. PHEAA cannot show that Congress intended to preempt Montanans' only legal remedy when student loan servicers' misrepresentations wipe out years of progress toward PSLF discharge and financial freedom.

### **CONCLUSION**

The PSLF Program is a critical recruitment tool for the U.S. Military, as well as the promise upon which numerous active duty servicemembers, veterans, and those who serve them have built their careers and planned their financial lives. Where Montanans are cheated of this reward for their sacrifices through the misrepresentations of unaccountable student loan servicers, Montana's CPA and common law provide remedies in keeping with Article II, § 16 of Montana's Constitution. These remedies are fully consistent with the PSLF Program and the rest of the HEA, and preemption would undermine military recruitment and shift the costs of servicers' misrepresentations to the Montanans who relied on them to do their jobs and tell the truth. This Court should not close the courthouse doors to



Montana residents by imposing preemption where no such Congressional intent exists.

Dated this 16<sup>th</sup> day of December, 2019.

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## CERTIFICATE OF COMPLIANCE

Pursuant to Rule 11(4)(a) and (d), M. R. App. P., I certify that this brief:

1. is proportionately spaced Times New Roman text typeface of 14 points;
2. is double spaced (except that footnotes and quoted and indented material are single spaced);
3. has left, right, top and bottom margins of 1 inch;
4. has a word count calculated by Microsoft Word of **3,873** words  
(excluding the Table of Contents, Table of Authorities, Certificate of Compliance and Certificate of Service).

Dated this 16<sup>th</sup> day of December, 2019.

DOUBEK, PYFER & STORRAR, PLLP

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