

# The Lawsuit Machine Going After Student Debtors

“This is robo signing 2.0”

by Natalie Kitroeff

June 3, 2015 — 6:27 PM MDT

Updated on June 4, 2015 — 5:00 AM MDT



Protesters hold dollar signs during an Occupy Wall Street rally in New York against the high cost of college tuition, in 2012.

Photographer: Don Emmert/AFP/Getty Images

In 2003, Adam Beverly borrowed \$30,000 from Bank One, now owned by JPMorgan Chase, to help cover the cost of attending Ohio State University. He never graduated. Three years later he found himself being sued by National Collegiate Student Loan Trust, which claimed he owed more than \$45,000 with interest and penalties. After a two-year court struggle, Beverly prevailed. In September a panel of Ohio judges said the collector had no evidence that it owned the debt and vacated the judgment.

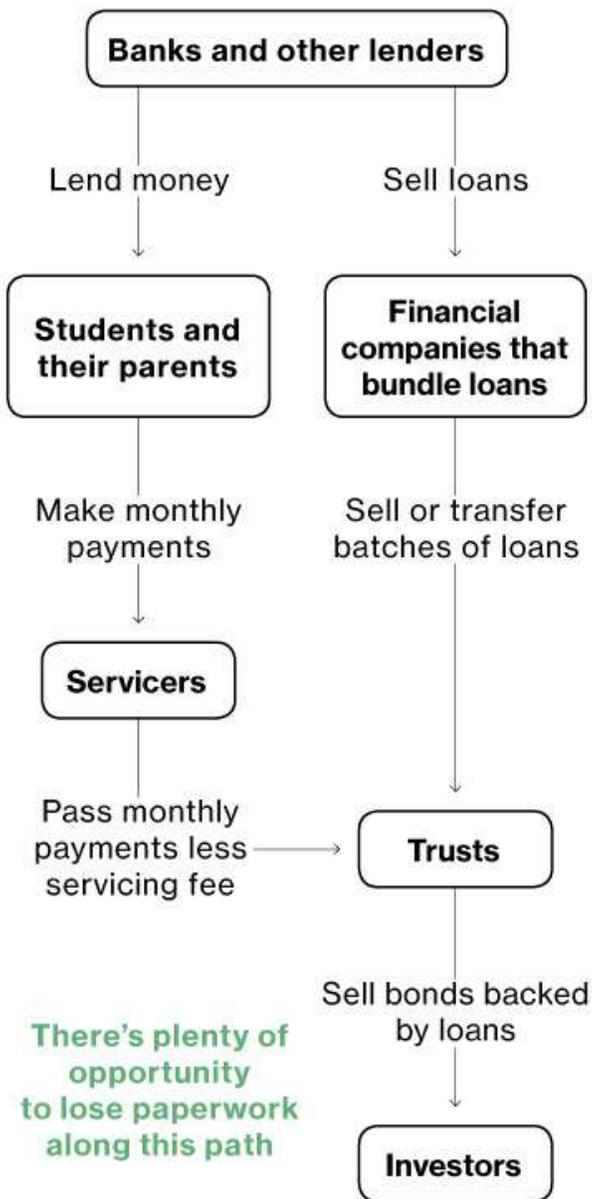
Student loans have eclipsed credit cards to become the second-largest source of outstanding debt in the U.S., after mortgages. Since 2007 the federal student loan balance has more than doubled, to almost \$1.2 trillion from \$516 billion. The Consumer Financial Protection Bureau estimates that students, former students, and their parents owe an additional \$150 billion in loans from banks and other private lenders.

With defaults climbing, lenders have turned to the courts to collect. Many of their suits are marred by missing documents and procedural errors, say consumer advocates and lawyers defending debtors. “Our office is seeing an uptick in abusive loan debt-collection tactics that leave no room for relief,” wrote Massachusetts Attorney

General Maura Healey in an e-mail.

The paperwork problems echo the “robosigning” scandals that followed the housing bust. Like mortgages, student loans were bundled into packages and sold to investors. “This is robosigning 2.0 with student loans,” says Robyn Smith, a lawyer with the National Consumer Law Center, a nonprofit advocacy group. “You have securitized loans in these large pools; you have the sloppy record keeping,” as in the mortgage crisis.

## From Loan to Bond



GRAPHIC BY BLOOMBERG BUSINESSWEEK;  
DATA: COMPILED BY BLOOMBERG

The National Collegiate Student Loan Trusts are investment vehicles created by a Boston company called First Marblehead that concentrates on education lending. From 1996 through 2007, First Marblehead bought student

loans from lenders including Bank of America, JPMorgan, and a bank now owned by Citizens Bank. It transferred batches of loans to trusts it created—more than two dozen in all. The trusts sold bonds backed by the loans. The trusts are responsible for collecting loan payments from borrowers and paying out interest to bondholders. In 2013 bond rater Moody’s Investors Service said it expected losses to reach as high as 50 percent in 15 National Collegiate trusts it examined.

National Collegiate trusts have been among the most active in suing borrowers, consumer advocates say. Since 2011, National Collegiate has filed more than 1,900 civil cases in Missouri, or an average of more than one lawsuit a day. The company has filed a total of more than 2,100 suits in Connecticut, Indiana, Arizona, and Oklahoma, according to state legal databases. Representatives for National Collegiate didn’t respond to repeated requests for comment. “We don’t comment on the trusts,” First Marblehead Chief Financial Officer Alan Breitman says.

Student debtors are challenging National Collegiate in court, and judges in Ohio, Florida, and Kentucky have found that the trusts haven’t proved they own the debt. In California, 13 people are seeking class-action status for a suit against National Collegiate for suing them to collect on student loans without identifying the original lender—which violates California debt-collection law. National Collegiate has denied the allegations in court filings.

Beverly’s monthly payments jumped to more than \$600 from about \$120, says Greg Reichenbach, his lawyer. Beverly tried to discuss the payment but was bounced back and forth between First Marblehead and National Collegiate, Reichenbach says. He stopped making payments in 2009. In 2012, National Collegiate filed two lawsuits against Beverly in Ohio state court demanding repayment of the loans. Beverly says he initially turned for help with the lawsuit to a credit repair service, which told him it would take care of the problem. When Beverly didn’t contest the suits, National Collegiate won default judgments.

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The suits didn’t assert that National Collegiate owned the loans, and after Beverly appealed, National Collegiate was unable to produce any documents indicating it owned them. “The whole basis for the lawsuit is that they are entitled to enforce this alleged debt, and they don’t even claim that they were assigned the debt, let alone prove it,” says Reichenbach, who handled Beverly’s appeal. The same missing or incomplete records of loan transfers sank National Collegiate suits in Kentucky and Florida and has pushed the company to back away from lawsuits in New Hampshire, California, and Pennsylvania, say lawyers representing student borrowers.

Lenders and their representatives are overwhelming the courts with thin and sometimes inaccurate lawsuits, says Christopher Koegel, an assistant director at the Federal Trade Commission's Bureau of Consumer Protection. Often, as in Beverly's case, there's no trial. "The cases that get filed in court for debt collection, a lot of times they are not for huge amounts, and so consumers may not show up to defend them," Koegel says. When borrowers don't contest debt-collection lawsuits, judges automatically rule in favor of the creditor. Once a lender gets a judgment, it can begin garnishing a debtor's wages and seizing his personal property. "It may be burdening consumers with judgments over their head for years and years," Koegel says.

Pablo Ramirez learned the benefits of fighting back. Ramirez took out a \$30,000 loan to pay for a bachelor's degree from Westwood College in 2006. When it came time to start paying off the debt, he says, the payments were more than he could afford. On a November morning in 2014, he went to his mailbox and pulled out a court notice that a judge had issued a judgment against him. He now owed \$50,000 to National Collegiate. "I was in shock," Ramirez says, because he hadn't known he was being sued.

Ramirez contested the ruling. National Collegiate said it gave Ramirez notice of the lawsuit, but a Texas county court judge set aside the judgment. "They didn't have any facts right," Ramirez says. "It seemed like they were trying to throw anything against the wall to see if it stuck."

***The bottom line:*** National Collegiate trusts have filed more than 4,000 lawsuits in five states seeking to collect on student loans.