

## Student Debt and the Federal Student Loan Forgiveness Program

By Elizabeth Harmon

**T**he Public Service Loan Forgiveness program [PSLF] was created in 2007 as part of the College Cost Reduction Act of 2007. Signed by President George W. Bush, the U. S. Dept. of Education program had the support of both parties and was created to provide college graduates a way out of their federal debt burden.

The goal of the PSLF program was to encourage students with higher degrees to enter positions in the field of public service. The PSLF addresses the problem of public service employers to attract professionals to fill their job vacancies. The problem being that in the public sector salaries tend to be lower than in the private sector and job-seekers are often saddled with substantial student debt. This debt can discourage new graduates from entering and staying in a lower-paying public service position. To compound the problem, a borrower who is employed in the public sector may opt for an income-driven repayment plan, which makes their monthly payments affordable. However, the downside is their interest continues to build and after years of payments they end up with a higher principal than they originally borrowed.

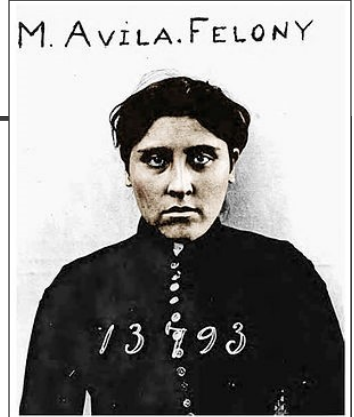
To help alleviate at least some of the burden these borrowers face, the PSLF offers to forgive a portion of the total debt that they must repay. To be eligible for the program it is necessary for the applicant to work for a qualifying employer for 10 years. During this time 120

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## Local Hero or Villain? The Mockery of Modesta Avila

By Mora Prestinary



**I**t was a momentous year! On March 11, 1889 the California Legislature signed a bill into law that recognized Orange County as a separate political entity. On July 17, 1889, Santa Ana became the County Seat, and Orange County became official on August 1, 1889. It was also the year that Modesta Avila became Orange County's first criminal.

Placing this incident in proper perspective, worldwide events in that year include:

- February:** A bill for statehood for North Dakota, South Dakota, Montana, and Washington is passed.
- March:** Benjamin Harrison is sworn in as the 23rd President of the United States.
- March:** The Eiffel Tower is inaugurated
- May:** The U.S. Supreme Court decision, Chae Chan Ping v. United States, upholds Chinese Exclusion laws' constitutionality.
- June:** Vincent van Gogh paints *The Starry Night*.
- June:** The Great Seattle Fire ravages through the downtown area without any fatalities.
- July:** The first issue of The Wall Street Journal is published in New York City.
- September:** Nintendo Company Ltd is founded in Japan.

Meanwhile, back in Orange County, California:

**November 1:** "Modesta Avila, of San Juan, who was convicted of placing an obstruction on the track of the California Southern Rail road, was this morning sentenced by Judge Towner to three years in the state Prison at San Quentin. Modesta is a hard character, and her absence is a god-send to the morals of this community."

"Good for the Morals of the Community", *Sacramento Daily Record-Union*, (November 2, 1889), pg.8.  
<https://chroniclingamerica.loc.gov/lccn/sn82014381/1889-11-02/ed-1/seq-8/>

Lisbeth Hass states in her book, *Conquests and Historical Identities in California, 1769-1936*, "The obstruction was simply a heavy fence post laid across one rail and another one hammered into the ground between the tracks, with a paper stuck to it that read: 'This

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qualifying payments must be made on time and within a specific qualifying repayment plan. Qualifying repayment plans are ones that the monthly payment amount is based on a borrower's income. Qualifying employers can be state, local, federal or tribal organizations; the military; not-for-profit organizations that are tax-exempt and some that are not tax-exempt; AmeriCorps and Peace Corps volunteers. Loans taken out under the Direct Loan Program qualify for the PSLF.

The borrowers who applied when the program started were eligible for loan forgiveness in October 2017. In reality, the program has created frustration and discouragement for many, with only a small percentage of applicants being able to meet all the requirements. Many of those who have not met these requirements have filed complaints with the *Consumer Financial Protection Bureau* [CFPB]. The CFPB was created in 2011 from the *Dodd-Frank Wall Street Reform and Consumer Protection Act* of 2010, which is the first federal agency whose intent is to provide consumer financial protection. They do not give financial or legal advice when a consumer files a complaint with the CFPB but instead act as a conduit between the consumers and the financial companies they contend have failed them. Student loan problems is one such area they handle - according to a 2017 agency report, there were 11,000 complaints regarding student loans between March 2016 and February 2017, which included a variety of problems with the PSLF program.

Many of these problems are associated with loan-servicers - private companies contracted by the Department of Education to handle the repayment choices, the paperwork, and related items. Borrowers complain about loan-servicers giving out faulty information, making errors in payment processing, losing paperwork, lacking familiarity with the requirements of the PSLF program, and their frustration in trying to get a precise total count of payments made. These complaints usually are a result of borrowers who have lost time and money trying to achieve loan forgiveness. The CFPB accepts complaints from a borrower and then reviews and forwards the complaint and any supporting documents to the responsible company. The company should review the complaint and respond to the borrower as needed and then report back to the Bureau.

For more information about the *Consumer Financial Protection Bureau* or to file a complaint, go to <https://www.consumerfinance.gov/about-us/contact-us/> or call (855)411-2372. 



What is the procedure for filing a claim against a California government agency?



To sue a government agency, you need to prove that:

You filed a claim with that agency; AND

The agency rejected your claim. If you heard nothing, the claim is considered rejected after 45 days.

In most cases, you only have 6 months to file a lawsuit in court once the agency rejects your claim. For additional information on how to present a claim to an agency see the California Courts website at <http://www.courts.ca.gov/1012.htm>

For research at the Law Library consult *California Government Tort Liability Practice*, 4th edition, published by CEB (Continuing Education of the Bar - California), available in the Main Reading Room, Floor 3 at call number KFC332 .V33 1999 (in the CEB stacks), or on CEB's database **OnLaw**, on the Library's public computer stations.

*Modesta Avila**(Continued from page 1)*

land belongs to me. And if the railroad wants to run here, they will have to pay me ten thousand dollars.' The obstruction was quickly removed and no harm [to the railroad] followed".

The first trial of Avila for interfering with the tracks was held at the newly opened Orange County Superior Court, ending with a 6-6 hung jury. In the week leading up to the retrial, rumors spread that Avila was pregnant out of wedlock. Her lawyer, forced to confirm that she was pregnant, believed that this pregnancy was the basis of the decision to incarcerate her for three years in San Quentin State Prison, writing "her real crime is that she is a poor girl not having sense enough to have been married". Her lawyer appealed to the court on grounds that she had been "convicted on her reputation, not her deed". He received a hearing at the Supreme Court, but lost the case on a technicality.

The gavel had come down: the newly opened Orange County Superior Court had convicted its first felon and first state prisoner. In this manner, Modesta, a young woman in her early twenties, born in San Juan Capistrano, was tossed aside and forgotten. Sentenced to three years, she languished in prison for almost two and half years, before dying of pneumonia. If she had been pregnant, the records at San Quentin make no mention of it. This was justice in 19th century Orange County. She had fought the Santa Fe Rail Road for their inadequate compensation to her of a right -of-way-through her property and lost. The railroad was the state's largest employer, politicians included, and the largest land-owner of all privately held land in the state.

The story of Modesta Avila really gives an outlook to the culture during this momentous year, in 1889 Orange County. She had four issues not in her favor:

- She was a (single) woman
- She was pregnant
- She was Mexican
- She defied the powerful railroad establishment

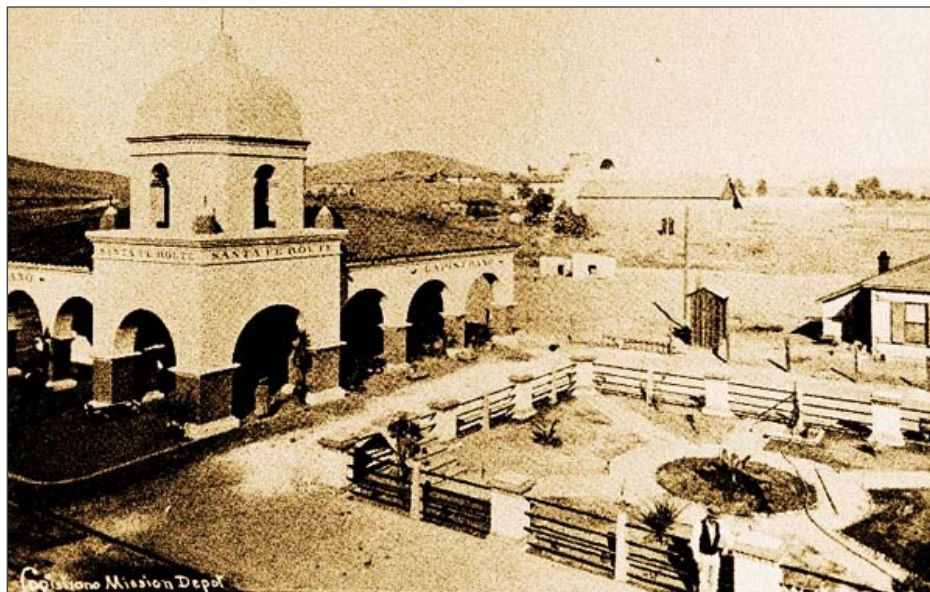
Where was the Humanity? Did it get lost somewhere along the tracks?

The following books elaborate on the Modesta Avila narrative:

Haas, Lisbeth. *Conquests and Historical Identities in California, 1769-1936*.

Sleeper, Jim. *Turn the Rascals Out: the Life and Times of Orange County's Fighting Editor Dan M. Baker*

Swanner, Charles D. *50 Years A Barrister in Orange County*.



Modesta Avila lived just to the north of the Santa Fe Depot, pictured here in this postcard from 1894.



The Library's long-time director, Maryruth Storer, retired at the end of August, moving back to her home state of Oregon. We wish her the best of luck and happiness in retirement.

We welcome the Library's new director, Brendan Starkey! Brendan joined the library in August, and comes to us from Chapman University's Hugh & Hazel Darling Law Library, Fowler School of Law where he was the Associate Director for Library Services. He has an MLS from the University of Kentucky, and a JD from the University of Southern California. We are excited he is here and look forward to working with him.

## Looking at the Web

by Mora Prestinary



SallieMae. Student Loans. <https://www.salliemae.com/>

U.S. Dept. of Education. Student Loans, Forgiveness. <https://www2.ed.gov/fund/grants-college.html?src=rn>

U.S. Dept. of Education. Federal Student Aid. <https://studentloans.gov/myDirectLoan/index.action>

Wikipedia. Modesta Avila. [https://en.wikipedia.org/wiki/Modesta\\_Avila](https://en.wikipedia.org/wiki/Modesta_Avila)

### California Road Trip: Motoring Through California's Past

Click below for a moment of Zen.

<https://artsandculture.google.com/exhibit/twJCUuaVA4eXIA>

## The Library will be closed

Monday November 12

&

Thursday November 22

Friday November 23



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