

**THE FAIR DEBT COLLECTION  
PRACTICES ACT AND THE  
BANKRUPTCY CLAIM PROCESS:  
DEBTORS' RIGHTS AND REMEDIES  
UNDER THE FDPCA**

**Hon. Douglas D. Dodd**  
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## Hypothetical

- Mega-Portfolio VII, LLC has filed a proof of claim in your client's Chapter 13 case.
- Your client doesn't recognize Mega-Portfolio VII, LLC, but thinks the claim may relate to medical debt from over a decade ago.
- The claim has upset your carefully crafted Chapter 13 plan.
- **WHAT DO YOU DO? WHAT CAN YOU DO?**

## Answer

- It depends on ...
  - In which circuit and/or state is your case located.
    - There is a circuit split and courts in the Fifth Circuit don't agree.
  - Is the "creditor" also a "debtor collector?"

## What are stale (aka zombie) claims?

- No longer enforceable at state law.
  - Discharged in a prior bankruptcy?
  - Lack of documentation?
  - Statute of limitations has run?
- The claim may get new life in bankruptcy depending on the circuit in which the bankruptcy has been filed.

## Why does it matter?

- Debtors are not the only parties with an interest in preventing collection on unenforceable claims.
- Creditors, too!
  - Payment on a stale claim reduces the availability of assets for distribution.

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## Title search: The Fair Debt Collection Practices Act and the Bankruptcy Claim Process: Debtors' Rights and Remedies under the FDPCA

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"The Fair Debt Collection Practices Act and the Bankruptcy Claim Process: Debtors' Rights and Remedies under the FDPCA"