



# Law Office Of J. Thomas Black, P.C.

Woodlake Plaza • 2600 South Gessner Road • Suite 110 • Houston, Texas 77063-3214

Telephone 713-772-8037 • Toll Free 877-597-9358

Web Site: [www.jthomasblack.com](http://www.jthomasblack.com) • Email [tom@jthomasblack.com](mailto:tom@jthomasblack.com)

AUGUST 2014 BULLETIN

## DEAR FRIENDS AND COLLEAGUES: 11<sup>TH</sup> CIRCUIT: STALE DEBTS FILED AS PROOFS OF CLAIM IN BANKRUPTCY CASES VIOLATE FAIR DEBT COLLECTION ACT!

### CRAWFORD V. LVNV CASE COULD RESULT IN DOOM FOR TIME- BARRED DEBT BUYERS

When someone defaults on a credit card or other debt, and the state “statute of limitations” runs without the creditor or anyone suing the borrower for the money, you would think that would be the end of it, don’t you? Oh no, not at all! There are numerous companies that purchase old debt, even though it is no longer legally collectible!

Why do so-called “debt buyers” buy time-barred debt? It must be because they can profit from it. One way that they have been able to profit from it, at least up to now, is if they file a “proof of claim” for it in a bankruptcy proceeding.

Filing a lawsuit against someone for a legally time-barred debt is and has been a violation of an important consumer protection law, the federal Fair Debt Collection Practices Act (FDCPA), for quite some time. But filing a proof of claim in a bankruptcy case to try to collect the same time-barred claim, was not considered an FDCPA violation. Until now.

Alabama resident Stanley Crawford owed \$2000 to a furniture company but couldn’t pay, and the furniture company charged off the debt in 1999. Later, they sold the debt to LVNV, a debt buyer. In 2008, Mr. Crawford filed chapter 13, and LVNV filed a proof of claim even though the debt had become stale several years earlier. Crawford objected to the proof of claim and filed an adversary proceeding for violation of the FDCPA. The bankruptcy court ruled against him, and the U.S. District Court affirmed the bankruptcy court.

But the 11<sup>th</sup> Circuit Court of Appeals ruled that:

“A deluge has swept through the U.S. bankruptcy courts of late. Consumer debt buyers- armed with hundreds of delinquent accounts purchased from creditors- are filing proofs of claim on debts deemed unenforceable under state statutes of limitation. This appeal considers whether a proof of

claim to collect a state debt in chapter 13 bankruptcy violates the Fair Debt Collection Practices Act (“FDCPA” or “Act”). 15 U.S.C. §§ 1692-1692p (2006).. We answer this question affirmatively. The FDCPA’s broad language, our precedent, and the record compel the conclusion that defendants’ conduct violated a number of the Act’s protective provisions. See *id.* §§ 1692(e), 1692d-1692f. We hence reverse the orders of the bankruptcy and district courts.”

Hopefully this decision will be followed by other courts, especially ours here in the 5<sup>th</sup> Circuit. Debt buyers should not be able to bring stale claims in bankruptcy court, that they cannot legally bring in state court. When they do, we need to be able to use the FDCPA to bring a claim against them. ■



Big News! C. Alexander Higginbotham, Esq. wed Jennifer Vaughn on July 10, 2014. U.S. Bankruptcy Judge David R. Jones (S.D. TX) officiated.  
Congratulations Alex!

### Quotes:

Aging: Eventually you will reach a point when you stop lying about your age and start bragging about it.

Is it just a coincidence that the Roman Numerals for forty (40) are XL?

When you are dissatisfied and would like to go back to your youth, think of Algebra.

*We are a federally designated Debt Relief Agency under the United States Bankruptcy Laws. We help people find answers to their debt and credit problems, including, when necessary, helping them file bankruptcy under the U.S. Bankruptcy Code.*

## A LITTLE HUMOR – the “Lord will provide” edition

A young woman brought her fiancé home to meet her parents. As the woman and her mother chatted in the living room, the father took the young man downstairs to play pool while they got to know each other.

“So how do you plan to support yourselves after you get married?”

“Oh, I’m sure God will provide for us.”

“Can you at least scrape together enough money for a security deposit on a nice apartment?”

“God will provide. I have faith.”

“And if you have children? Will you get a job then?”

“I’m not worried. God will provide.”

When the father went upstairs to help get dinner ready, his wife asked him, “So what did you find out?”

“Well,” the father said, “he’s got no money, no plans, and he apparently thinks I’m God.” ■



## AVOID LATE FEES BY ORGANIZING YOUR BILLS

No one enjoys paying bills, but like death and taxes, they’re a fact of life...

No one enjoys paying bills, but like death and taxes, they’re a fact of life. If you end up paying late fees because you’ve procrastinated past the due date, you can save yourself some money and turmoil by following this timely advice:

- **Put bills on your calendar.** Pick a monthly or twice-monthly date for handling all paperwork— bills, receipts, statements, etc. Treat it like any other appointment so you don’t forget or put it off.

- **Get organized.** Gather all your supplies before you sit down to work: pens, file folder, checkbook, stamps, envelopes, labels, and a calculator. Set up a portable workstation or clear off the desk so you can get down to work.

- **Develop a filing system.** Sort all your paperwork into five files: banking, billing, payment booklets, receipts, and statements. Buy a box or file folder with slots for each day of the month, and then put each bill in the slot of the date it is due (or a few days before to ensure it gets paid on time). ■



*"SHE'S TEXTING AT A 10TH GRADE LEVEL."*

---

**Thank you for your referrals! We accept cases in the following areas-**

Bankruptcy.  
Debt Collection Defense.  
Debt Collector Harassment.  
I.R.S. Collection Defense.  
Stop Foreclosure and Repossession.  
Student Loan Help.

---

### ARE YOU IN CHAPTER 13 NOW?

Always keep the law office updated with your current address, telephone numbers, and email address. We may need to reach you quickly. You can check on the status of your Trustee payments, how much you still owe on your case, etc., by going to [www.ndc.org](http://www.ndc.org) to set up your user ID and password.

Lose job or overtime? Expenses increase? Want to give up property to lower payments? Call the office for a Motion to Modify worksheet. Complete it and email it or fax it to the office at 713-772-5058. We’ll review it and contact you if a change to your plan is possible.

---

J. Thomas Black was licensed as an attorney in Texas by the Texas Supreme Court in May, 1982. Mr. Black is Board Certified in Consumer Bankruptcy Law by the Texas Board of Legal Specialization.

*We are a federally designated Debt Relief Agency under the United States Bankruptcy Laws. We help people find answers to their debt and credit problems, including, when necessary, helping them file bankruptcy under the U.S. Bankruptcy Code.*