



Does the FDCPA Apply in Bankruptcy?

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Cite as: *Does the FDCPA Apply in Bankruptcy?*, 7 ST. JOHN'S BANKR. RESEARCH LIBR. NO. 6 (2015).

Introduction

In 1977, Congress enacted the Fair Debt Collection Practices Act (“FDCPA”) to remedy rampant abusive debt collection practices by debt collectors. A year later, the Bankruptcy Code was enacted under Title 11 of the United States Code. Conflicts arise as to whether which law applies when debt collectors use abusive debt collection practices while seeking to recover from a debtor in a bankruptcy case. Circuit courts are split as to whether the Bankruptcy Code displaces the FDCPA in the bankruptcy context. Some circuit courts have concluded that the Bankruptcy Code displaces the FDCPA in the bankruptcy context. Alternatively, some circuit courts have held that the Bankruptcy Code does not preempt the FDCPA and debt collectors may be liable under the FDCPA in bankruptcy cases.

This Article will discuss the purpose of the FDCPA and what constitutes a violation of the FDCPA. Following a discussion of the FDCPA, it will discuss how the circuit courts deal with the FDCPA in bankruptcy cases. Lastly, this article will discuss the implications in the circuits holding that the Bankruptcy Code does not displace the FDCPA in bankruptcy contexts.

I. The Fair Debt Collection Practices Act

Congress enacted the FDCPA after finding “abundant evidence of the use of abusive, deceptive, and unfair debt collection practices by many debt collectors.”¹ Congress, in enacting the FDCPA, sought to “eliminate abusive debt collection practices by debt collectors, to insure that those debt collectors who refrain from using abusive debt collection practices are not competitively disadvantaged, and to promote consistent State action to protect consumers against debt collection abuses.”²

Under the FDCPA, communications from debt collectors to debtors are analyzed under the “least sophisticated consumer” standard rather than a “reasonable consumer” standard.³ The “least sophisticated consumer” standard looks to whether the least sophisticated consumer would be misled by the debt collectors’ “false, deceptive, or misleading actions.”⁴ The “least sophisticated consumer” standard is still an objective test, and the test evaluates whether “there is a reasonable likelihood that an unsophisticated consumer who is willing to consider carefully the contents of a communication might yet be misled by them.”⁵

Among other things, the FDCPA prohibits a debt collector from:

- contacting consumer known to be represented by an attorney⁶;
- communicating with consumers after receiving written notice wishing no further communication⁷;
- misrepresenting the character, amount, or the status of a debt⁸;
- engaging “in any conduct the natural consequence of which is to harass, oppress, or abuse any person in connection with the collection of a debt”⁹;
- misrepresenting that the debt collector is an attorney or law enforcement officer¹⁰;
- using an obscene or profane language to a debtor¹¹; and

¹ 15 U.S.C. § 1692(a).

² 15 U.S.C. § 1692(e).

³ *Leshner v. Law Offices Of Mitchell N. Kay, PC*, 650 F.3d 993 (3d Cir. 2011).

⁴ *See Wallace v. Washington Mut. Bank, F.A.*, 683 F.3d 323, 325 (6th Cir. 2012).

⁵ *Grden v. Leikin Ingber & Winters PC*, 643 F.3d 169, 172 (6th Cir. 2011).

⁶ *See* 15 U.S.C. § 1692c(a)(2)

⁷ *See* 15 U.S.C. § 1692c(c)

⁸ *See* 15 U.S.C. § 1692d(2)(A)

⁹ 15 U.S.C. § 1692d

¹⁰ *See* 15 U.S.C. § 1692d(1); 15 U.S.C. § 1692d(3)

¹¹ *See* 15 U.S.C. § 1692d(2)

- reporting false information on a consumer's credit report or threatening to do so in the process of collection.¹²

If debt collectors violate the FDCPA, the Federal Trade Commission is authorized to bring an enforcement action.¹³ Additionally, Congress provided consumer debtors with a private right of action, rendering “debt collectors who violate the [FDCPA] liable for actual damages, statutory damages up to \$1,000, and reasonable attorney’s fees and costs.”¹⁴

II. Whether the Bankruptcy Code Displaces the FDCPA

Circuit courts are split as to whether the Bankruptcy Code displaces the FDCPA in the bankruptcy context.¹⁵ Some Circuits have concluded that the Bankruptcy Code displaces the FDCPA in the bankruptcy context.¹⁶ Alternatively, other circuits have held that the Bankruptcy Code does not preempt the FDCPA.¹⁷ Recently, the Eleventh Circuit in *Crawford v. LVNV Funding, LLC* held that the creditor violated the FDCPA by filing a proof of claim to collect an unenforceable debt without answering whether the Bankruptcy Code “preempts” the FDCPA.¹⁸

A. A View that the Bankruptcy Code Preempts the FDCPA in Bankruptcy Cases

The Second and Ninth Circuits held that the Bankruptcy Code preempts the FDCPA in the bankruptcy context.¹⁹ The reasoning behind this view is that the FDCPA is not needed to protect debtors who are already under the protection of the bankruptcy court, and there is no need to supplement the remedies afforded by bankruptcy itself.²⁰

i. Second Circuit - *Simmons v. Roundup Funding, LLC*

¹² See 15 U.S.C. § 1692e(8)

¹³ See 15 U.S.C. § 1692l

¹⁴ See 15 U.S.C. § 1692k.

¹⁵ See *Crawford v. LVNV Funding, LLC*, 758 F.3d 1254, 1257 (11th Cir. 2014).

¹⁶ See *Simmons v. Roundup Funding, LLC*, 622 F.3d 93, 96 (2d Cir.2010); *Walls v. Wells Fargo Bank, N.A.*, 276 F.3d 502, 510 (9th Cir.2002).

¹⁷ See *Simon v. FIA Card Ser., N.A.*, 732 F.3d 259, 271-74 (3d Cir.2013); *Randolph v. IMBS, Inc.*, 368 F.3d 726, 730-33 (7th Cir.2004).

¹⁸ See generally *Crawford*, 758 F.3d 1254.

¹⁹ See *Simmons*, 622 F.3d at 96; *Walls*, 276 F.3d at 510.

²⁰ See *Simmons*, 622 F.3d at 96; *Walls*, 276 F.3d at 510.

The Second Circuit opines that the bankruptcy process is already highly regulated and court controlled, and therefore, debtors in bankruptcy cases do not need protection from abusive collection methods covered under the FDCPA.²¹ In *Simmons v. Roundup Funding, LLC*, a creditor in the debtors' bankruptcy case filed a proof of claim.²² The debtors objected to the proof of claim.²³ After a hearing, the bankruptcy court reduced the claim to a lower amount.²⁴

Subsequently, the debtors commenced a putative class action against the creditor and its counsel, alleging that the creditor and its counsel violated the FDCPA by misrepresenting the amount of the debt when the creditor filed its proof of claim.²⁵ The creditor and its counsel then moved to dismiss, arguing that an inflated proof of claim in bankruptcy court cannot form the basis for an FDCPA action.²⁶ The district court agreed with the creditor and its counsel and dismissed the action.²⁷ The debtors appealed.²⁸

In affirming the dismissal, the Second Circuit reasoned that the FDCPA was “designed to protect against the abusive debt collection practices likely to disrupt a debtor’s life.”²⁹ The Second Circuit noted that the purpose of the FDCPA is to “protect unsophisticated consumers from unscrupulous debt collectors.”³⁰ The Second Circuit, however, found that, in bankruptcy cases, “debtors do not need protection from abusive collection methods that are covered under the FDCPA because the claims process is highly regulated and court controlled.”³¹ The Second Circuit further opined that the correct course of action for the debtors would be to seek remedies

²¹ See generally *Simmons*, 622 F.3d 93.

²² See *id.* at 94-95.

²³ See *id.* at 95.

²⁴ See *id.*

²⁵ See *id.*

²⁶ See *id.*

²⁷ See *id.*

²⁸ See *id.*

²⁹ See *id.* at 96 (quoting *Mace v. Van Ru Credit Corp.*, 109 F.3d 338, 343 (7th Cir. 1997)).

³⁰ See *id.*

³¹ See *id.* (quoting *B-Real, LLC v. Rogers*, 405 B.R. 428, 432(M.D.La.2009))

that bankruptcy process provides, such as revocation of fraudulent proofs of claim and the court's contempt power.³² Accordingly, the Second Circuit concluded that, because the bankruptcy court already protected the debtors, there was no need to supplement the remedies the bankruptcy process provided with those provided by the FDCPA.³³

ii. Ninth Circuit - *Walls v. Wells Fargo Bank, N.A.*

Similar to the Second Circuit, the Ninth Circuit held that the Bankruptcy Code preempts the FDCPA in the bankruptcy context.³⁴ For example, in *Walls v. Wells Fargo Bank, N.A.*³⁵, the debtor continued to make mortgage payments to her bank on her home to keep the house under a “ride-through”.³⁶

Under a “ride-through” arrangement under *Walls*, the bank retained its lien on the home and could foreclose if the debtor did not make payments.³⁷ When the debtor failed to make payments, the bank foreclosed on the house.³⁸ Following the foreclosure, the debtor sued the bank in federal district court, alleging that the bank did not obtain an agreement reaffirming its debt under section 524(c) after she filed for bankruptcy, and that her debts were discharged.³⁹ The debtor claimed that the bank continued to solicit and collect monthly payments, which she made before the discharge but after the automatic stay and after the discharge.⁴⁰ The debtor

³² See *id.* (citing *Baldwin v. McCalla*, No. 98-C-4280, 1999 WL 284788, at *4 (N.D.III. Apr. 19, 1999).

³³ See *id.*

³⁴ See *Walls*, 276 F.3d at 510.

³⁵ 276 F.3d 502, 510 (9th Cir.2002).

³⁶ Under a “ride-through” arrangement, Debtors are allowed to avoid making a statutory election whether to redeem the property or reaffirm the debt pursuant to section 524(c), which results in banks retaining their lien on the property and could foreclose in the event that debtors fail to make payments. See *In re Parker*, 139 F.3d 668, 672–73 (9th Cir.1998). Debtors can retain the automobile as long as he continues to make the monthly payments, even though any deficiency debt is discharged. See *id.* See also *Walls*, 276 F.3d at 510.

³⁷ See *Walls*, 276 F.3d at 510.

³⁸ See *id.*

³⁹ See *id.*

⁴⁰ See *id.*

contended that this activity violated the FDCPA § 1692f because it was an unfair and unconscionable means of collecting a debt under the FDCPA.⁴¹

The district court referred the debtor's claims for willful violation of the automatic stay and for contempt on account of the alleged violation of the automatic stay and the discharge injunction to the bankruptcy court.⁴² The district court, however, dismissed the remaining claims including FDCPA claims.⁴³ The debtor appealed the district court's decision.⁴⁴

The Ninth Circuit rejected the debtor's argument that the Bankruptcy Code does not preclude a simultaneous claim under the FDCPA.⁴⁵ The Ninth Circuit held that the debtors' remedy for creditor's alleged violations of the discharge injunction remained under the Bankruptcy Code, and she could not pursue a simultaneous claim under the FDCPA.⁴⁶ The Ninth Circuit reasoned that, "[w]hile the purpose of the FDCPA is to avoid bankruptcy, if bankruptcy nevertheless occurs, the debtor's protection and remedy remain under the Bankruptcy Code."⁴⁷

B. A View that the FDCPA Still has a Role in Bankruptcy Cases

Contrary to the Second and Ninth Circuits, the Third and Seventh Circuits held that the Bankruptcy Code does not preempt the FDCPA in bankruptcy cases.⁴⁸ These circuits reason that one federal statute does not preempt another when they address same subject in different ways.⁴⁹ Rather, these circuits hold that a federal statute implicitly repeals another when there is "an

⁴¹ *See id.*

⁴² *See id.*

⁴³ *See id.*

⁴⁴ *See id.*

⁴⁵ *See id.* at 510.

⁴⁶ *See id.*

⁴⁷ *See id.*

⁴⁸ *See Simon*, 732 F.3d at 271-74; *Randolph*, 368 F.3d at 730-33.

⁴⁹ *See Randolph*, 368 F.3d at 730 (citing *Baker v. IBP, Inc.*, 357 F.3d 685, 688 (7th Cir.2004)).

irreconcilable conflict between the statutes or a clearly expressed legislative decision that one replace[s] the other.”⁵⁰

i. Third Circuit - *Simon v. FIA Card Ser., N.A.*

The Third Circuit opines that the FDCPA and the Bankruptcy Code can simultaneously apply, as long as the rules do not directly conflict with each other.⁵¹ In *Simon*, the creditor, a credit card company, and its counsel sent a letter notifying the debtor that the creditor was considering filing an adversary proceeding to challenge the dischargeability of the credit-card debt.⁵² The letter offered to forego the adversary proceeding if the debtors stipulated that the credit-card debt was nondischargeable or agreed to settle the debt.⁵³

The debtors filed an adversary proceeding alleging that the creditor and its counsel violated the FDCPA § 1692e by sending a letter and notice requesting an examination under Federal Rule of Bankruptcy Procedure 2004 and offering to settle a debt during a pending bankruptcy case.⁵⁴ The bankruptcy court ruled that it lacked the subject-matter jurisdiction over the FDCPA claims and dismissed them without prejudice.⁵⁵ Following the dismissal, the debtors sued the creditor and its counsel in the federal district court, alleging the same FDCPA violations.⁵⁶ The district court dismissed the FDCPA suit with prejudice, reasoning that the FDCPA claims were precluded by the Bankruptcy Code, and that the complaint did not allege sufficient factual allegations to state a claim under the FDCPA.⁵⁷ The debtors appealed.⁵⁸

⁵⁰ *See id.* (finding that there is no irreconcilable conflict between the FDCPA prohibitions and the Bankruptcy Code's discharge injunction and automatic stay provisions).

⁵¹ *See Simon*, 732 F.3d at 274-78.

⁵² *See id.*

⁵³ *See id.*

⁵⁴ *See id.* at 263.

⁵⁵ *See id.*

⁵⁶ *See id.*

⁵⁷ *See id.*

⁵⁸ *See id.*

The Third Circuit affirmed in part and reversed in part the district court’s dismissal of the debtors’ FDCPA claims because the FDCPA and the Bankruptcy Code should be simultaneously enforced, as long as the rules did not directly conflict with each other.⁵⁹ The Third Circuit referred to the Supreme Court’s precedents recognizing a presumption against the implied repeal of one federal statute by another.⁶⁰ In particular, the Third Circuit noted that, “[W]hen two statutes are capable of coexistence, it is the duty of the courts, absent a clearly expressed congressional intention to the contrary, to regard each as effective.”⁶¹ The Third Circuit, therefore, decided to inquire as to whether the FDCPA claims raised directly conflicted with the Bankruptcy Code, or whether both could be enforced simultaneously.⁶²

After analyzing the alleged FDCPA violations, the Third Circuit affirmed in part and reversed in part the district court’s dismissal of the debtors’ FDCPA claims.⁶³ The Third Circuit found that the debtors’ FDCPA § 1692e(11) claim directly conflicted with the automatic stay provision of the Bankruptcy Code.⁶⁴ Therefore, the Third Circuit affirmed the district court’s dismissal of that claim.⁶⁵ For the debtors’ FDCPA § 1692e(5) and (13) claims, however, the Third Circuit reversed the district court’s dismissal of those claims, finding that they did not conflict with the Bankruptcy Code, and remanded the remaining claims back to the district court.⁶⁶

ii. Seventh Circuit - *Randolph v. IMBS, Inc.*

The Seventh Circuit agrees with the Third Circuit that overlapping portions of the FDCPA and the Bankruptcy Code can be enforced simultaneously if the statutes do not directly

⁵⁹ *See id.* at 280.

⁶⁰ *See id.* at 274.

⁶¹ *See id.* (quoting *J.E.M. Ag Supply, Inc. v. Pioneer Hi-Bred Intern., Inc.*, 534 U.S. 124, 143–44 (2001)).

⁶² *See id.*

⁶³ *See id.* at 280.

⁶⁴ *See id.*

⁶⁵ *See id.*

⁶⁶ *See id.*

conflict each other.⁶⁷ The Seventh Circuit in *Randolph v. IMBS, Inc.* held that related statutes in the FDCPA and the Bankruptcy Code did not directly conflict with each other, and could be simultaneously enforced.⁶⁸ In *Randolph*, three debtors brought separate actions against collection agencies, alleging that agencies' negligent attempts to collect debts after debtors had filed for bankruptcy violated the FDCPA § 1692e.⁶⁹ Two of the actions were dismissed, and the third action was dismissed in part.⁷⁰ All three debtors appealed, and the appeals were consolidated.⁷¹

The Seventh Circuit held that related statutes in the FDCPA and the Bankruptcy Code did not directly conflict with each other, and could be simultaneously enforced.⁷² Therefore, the Seventh Circuit reversed the dismissals.⁷³ Furthermore, The Seventh Circuit stated that the Bankruptcy Code does not implicitly repeal the FDCPA, and explicitly rejected the approach taken by the Ninth Circuit in *Walls*.⁷⁴

III. The FDCPA May Apply Even When Preemption Is Not Addressed

Recently, in *Crawford v. LVNV Funding, LLC*,⁷⁵ the Eleventh Circuit held that the creditor violated the FDCPA by filing a proof of claim to collect a debt that was unenforceable because the statute of limitations had expired.⁷⁶ Although the Eleventh Circuit in *Crawford* declined to answer whether the Bankruptcy Code “preempts” the FDCPA, the Eleventh Circuit joined the Third and Seventh Circuits holding that debt collectors may violate the FDCPA in bankruptcy cases.⁷⁷

⁶⁷ See generally *Randolph*, 368 F.3d 726.

⁶⁸ See *id.* at 730.

⁶⁹ See *id.* at 726.

⁷⁰ See *id.*

⁷¹ See *id.*

⁷² See *id.* at 730.

⁷³ See *id.* at 733.

⁷⁴ See *id.*

⁷⁵ 758 F.3d 1254.

⁷⁶ See generally *Crawford*, 758 F.3d 1254.

⁷⁷ See *Crawford*, 758 F.3d at 1257; *Simon*, 732 F.3d at 271-74; *Randolph*, 368 F.3d at 730-33.

In *Crawford*, a third-party creditor acquired a debt owed by the debtor from a furniture company.⁷⁸ Under Alabama’s three-year statute of limitations, the debt became unenforceable.⁷⁹ After the debtor filed bankruptcy under chapter 13 of the Bankruptcy Code, the third-party creditor filed a proof of claim for the time-barred debt.⁸⁰ Neither the debtor nor the bankruptcy trustee objected the claim.⁸¹ Rather, the trustee distributed the pro rata portion of the claim from the plan payments to the creditor.⁸² The debtor commenced an adversary proceeding against the third-party creditor alleging that the third-party creditor filed a proof of claim for a time-barred debt in violation of the FDCPA.⁸³ The bankruptcy court dismissed the adversary proceeding in its entirety, and district court affirmed.⁸⁴ In affirming the bankruptcy court’s dismissal, the district court found that the third-party creditor did not attempt to collect a debt from the debtor because filing a proof of claim is “merely ‘a request to participate in the distribution of the bankruptcy estate under court control.’”⁸⁵ On appeal, the Eleventh Circuit reversed, holding that the third-party creditor violated the FDCPA by filing a stale claim in the bankruptcy court.⁸⁶

Although the Eleventh Circuit ruled against the creditor based on FDCPA without discussing the preemption issue in this case, the Eleventh Circuit noted that Congress enacted the FDCPA in order “to stop ‘the use of abusive, deceptive, and unfair debt collection practices by many debt collectors.’”⁸⁷ In reaching its decision, the Eleventh Circuit stated that the FDCPA regulates the conduct of debt-collectors, which is defined as any person who “regularly collects

⁷⁸ See *Crawford*, 758 F.3d at 1257.

⁷⁹ See *id.*

⁸⁰ See *id.*

⁸¹ See *id.* at 1259.

⁸² See *id.*

⁸³ See *id.* at 1257.

⁸⁴ See *id.*

⁸⁵ See *Crawford v. LVNV Funding, LLC*, 2013 WL 1947616, at *2 (M.D. Ala. 2013) (quoting *In re McMillen*, 440 B.R. 907, 912 (Bkrtcy.N.D.Ga.2010)).

⁸⁶ See *Crawford*, 758 F.3d at 1257.

⁸⁷ See *id.* (quoting 15 U.S.C. § 1692(a)).

... debts owed or due or asserted to be owed or due another.”⁸⁸ The creditor did not dispute that it was a debt collector and thus subject to the FDCPA.⁸⁹

The Eleventh Circuit referred to the Section 1692(e) of the FDCPA, which “provides that ‘[a] debt collector may not use any false, deceptive or misleading representation or means in connection with the collection of any debt.’”⁹⁰ Because Congress did not provide a definition for the terms “unfair” or “unconscionable,” the Eleventh Circuit adopted a “least-sophisticated consumer” standard to determine whether the creditor had violated FDCPA.⁹¹

In *Crawford*, the creditor filed a time-barred proof of claim because “[a]bsent an objection from either the Chapter 13 debtor or the trustee, the time-barred claim is automatically allowed against the debtor pursuant to 11 U.S.C. § 502(a)-(b) and Bankruptcy Rule 3001(f).”⁹² Indeed, in *Crawford*, neither the trustee nor the debtor objected to the claim in the bankruptcy case, and the trustee disbursed the money to the creditor.⁹³ The Eleventh Circuit reasoned that a debt collector’s filing of a time-barred proof of claim, similar to the filing of a stale lawsuit, creates the misleading impression to the debtor that the debt collector can legally enforce the debt.⁹⁴ Therefore, the Eleventh Circuit found that under the “least-sophisticated consumer” standard, the creditor’s filing of a time-barred claim in debtor’s bankruptcy Chapter 13 case was “unfair,” “unconscionable,” “deceptive,” and “misleading” within the broad scope of the FDCPA.⁹⁵

IV. Implications

⁸⁸ See *Crawford*, 758 F.3d at 1258; see also 15 U.S.C. § 1692(a)(6).

⁸⁹ See *Crawford*, 758 F.3d at 1258.

⁹⁰ See *id.* (quoting 15 U.S.C. § 1692e).

⁹¹ See *id.*

⁹² See *id.* at 1259.

⁹³ See *id.*

⁹⁴ See *id.* at 1261.

⁹⁵ See *id.*

Congress provided consumer debtors with a private right of action, rendering “debt collectors who violate the [FDCPA] liable for actual damages, statutory damages up to \$1,000, and reasonable attorney’s fees and costs.”⁹⁶ Because Congress provides that debtors are entitled to reasonable attorney’s fees and debtors who are subject to debt collectors violating the FDCPA does not have to incur the cost of bringing a FDCPA claim, and should be able to find an attorney to represent the FDCPA claims. Compared to the FDCPA, the Bankruptcy Code does not expressly provide attorney’s fees for debtors who object to debt collectors violating the Bankruptcy Code.

In the Third and Seventh circuits, bankruptcy courts will enforce both the Bankruptcy Code and the FDCPA unless direct conflict between the two exists. This gives the debtors the opportunity to object to debt collectors without worrying about attorney’s fees. For example, if a debt collector’s actions violate the automatic stay provisions of the Bankruptcy Code and abusive collecting practices of the FDCPA, the debtor has the opportunity to object to the debt collector under the FDCPA and have attorney’s fees covered.

Even in the Eleventh Circuit, where the court refused to address the preemption issue, creditors should be especially careful to not file any time-barred proof of claims in jurisdictions that allow FDCPA claims. Moreover, if the debtor files a bankruptcy case in a jurisdiction where FDCPA claims are allowed, he should review every proof of claim filed in his estate. If a creditor files a time-barred claim, the debtor should object to the claim. Furthermore, the debtor should file an action against the creditor under the FDCPA. Even if the debtor or the trustee failed to object to the time-barred claim and paid off the stale debt, as was the case in *Crawford*, the debtor should be able to recover under the FDCPA.

⁹⁶ See *Crawford*, 758 F.3d at 1258; 15 U.S.C. § 1692k.
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Alternatively, if the debtor files a bankruptcy case in a jurisdiction where FDCPA claims are unavailable, the debtor should review filed proof of claims and object to any stale claims despite the unavailability of statutory damages and attorney's fees. Whether or not FDCPA claims are available in a jurisdiction, debtors should be vigilant since creditors may continue to file stale proof of claims because the debt they are able to recover may be more than the damages they pay out in violation of the FDCPA.

V. Conclusion

Conflicts arise as to whether which law, the FDCPA or the Bankruptcy Code, applies when debt collectors use abusive debt collection practices while seeking to recover from a debtor in a bankruptcy case. Circuit courts are split as to whether the Bankruptcy Code displaces the FDCPA in the bankruptcy context. The Second and Ninth Circuits held that the Bankruptcy Code preempts the FDCPA in the bankruptcy context.⁹⁷ The reasoning behind this view is that the FDCPA is not needed to protect debtors who are already under the protection of the bankruptcy court, and there is no need to supplement the remedies afforded by bankruptcy itself.⁹⁸

Contrary to the Second and Ninth Circuits, the Third and Seventh Circuits held that the Bankruptcy Code does not preempt the FDCPA in bankruptcy cases.⁹⁹ These circuits reason that one federal statute does not preempt another when they address same subject in different ways.¹⁰⁰ Although the Eleventh Circuit in *Crawford* declined to answer whether the Bankruptcy

⁹⁷ See *Simmons*, 622 F.3d at 96; *Walls*, 276 F.3d at 510.

⁹⁸ See *Simmons*, 622 F.3d at 96; *Walls*, 276 F.3d at 510.

⁹⁹ See *Simon*, 732 F.3d at 271-74; *Randolph*, 368 F.3d at 730-33.

¹⁰⁰ See *Simon*, 732 F.3d at 271-74; *Randolph*, 368 F.3d at 730-33.

Code “preempts” the FDCPA, the Eleventh Circuit joined the Third and Seventh Circuits holding that debt collectors may violate the FDCPA in bankruptcy cases.¹⁰¹

¹⁰¹ See *Crawford*, 758 F.3d at 1257.