

The CFPB's New Enforcement Tool: Bankruptcy Code Section 105 - What Creditors Need to Know to Avoid Liability

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One and a half (1.5) Education Credits toward Certification/Recertification

The CFPB and United States Trustee (UST) have turned to Bankruptcy Code § 105 as an enforcement tool for addressing the conduct of debt buying companies. Section 105(a) provides a bankruptcy court with broad powers to “issue any order, process, or judgment that is necessary or appropriate to carry out the provisions of [the Bankruptcy Code].” Recently, the UST filed two actions under § 105 concerning a debt buying company’s conduct in filing proofs of claim. The UST seeks injunctive, monetary and other relief. Conspicuously absent is any reference to the Fair Debt Collection Practices Act.

The presenters will examine § 105 and the risks arising from it in receivables management. Topics include:

- An overview of pending actions and issues against debt buyers in bankruptcy cases
- An understanding of § 105 and how to protect your organization from potential liability.
- What steps organizations should take now to ensure its process of filing claims meets the requirements set forth in the Bankruptcy Code and Rules.
- A discussion on the overall bankruptcy process to help provide and structure your bankruptcy operations in today’s litigious bankruptcy arena.

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Course Presenters:



Don Maurice is a partner at Maurice Wutscher LLP a law firm with offices in 11 states representing the financial services industry nationwide. For nearly 30 years, Don has defended the financial services industry in bench and jury trials before various state and federal courts in both individual and class actions. He has successfully litigated for financial services companies before the U.S. Courts of Appeals for the Third and Eighth Circuits and has served as *amicus* counsel for the financial services industry before the Second, Sixth and Ninth Circuit Court of Appeals as well as the US Supreme Court. Don was appointed a fellow of the American College of Consumer Financial Services Lawyers and serves on the Governing Committee of the Conference on Consumer Finance Law. He currently serves as chair of the Debt Collection Practices and Bankruptcy Subcommittee of the American Bar Association. Don serves as outside counsel to DBA International; he is admitted to the Bars of New York, New Jersey and the District of Columbia



Alan C. Hochheiser, based in Maurice Wutscher's Cleveland office, is a leading practitioner in the areas of creditors' rights and bankruptcy law. He advises and represents businesses, regional and national banks, credit unions, equipment lessors and other lenders, as well as secured and unsecured creditors. Among his accomplishments, he has successfully resolved non-dischargeable claims based upon fraud conversion and breach of fiduciary issues and has successfully handled the assumption of leases in the bankruptcy of a major airline. Al has been named to ALM's list of Cleveland's Top-Rated Lawyers and is peer-rated AV Preeminent by Martindale-Hubbell, the worldwide guide to lawyers.