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5th Circuit Limits ‘Value’ in Fraudulent Transfer Defense

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The U.S. Court of Appeals for the Fifth Circuit, on Oct. 16, 2014, held that a “good faith transferee” in a fraudulent transfer suit “is entitled” to keep what it received “only to the extent” it gave “value.” *Williams v. Federal Deposit Insurance Corp. (In re Positive Health Management)*, at *8 (5th Cir. Oct. 16, 2014). Reversing in part the district and bankruptcy courts, the Fifth Circuit narrowed their holding that the debtor had “received reasonably equivalent value in exchange for the debtor’s cash transfers.” *Id.* at *1-2. In effect, the court of appeals disregarded the value of indirect economic benefits that had been relied upon by a good-faith lender as an affirmative defense to the trustee’s fraudulent transfer claim. In this article, SRZ partner Michael L. Cook discusses the Fifth Circuit’s decision.

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