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One more thing to worry bankrupt companies: 503(b)(9) claims

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The 503(b)(9) amendment is threatening to become the monster that ate Detroit.

The amendment, **which took effect as a result of the Bankruptcy Abuse Prevention and Consumer Protection Act in 2005**, has represented a particular problem for companies in the retail and auto parts sectors. The amendment, which grants an administrative claim to vendors that have supplied a debtor with goods within 20 days of a bankruptcy filing, **has even resulted in administrative insolvency** for debtors such as Empire Beef Co. and **wreaked havoc** on cases such as Blackhawk Automotive Plastics Inc.

But while the average case has piled up a few million dollars worth of claims (the exception being Empire's more than \$20 million), Plastech Engineered Products Inc., which makes plastic-molded auto parts, may take the mantle as owning one of the highest tabs of 503(b)(9) debt to date.

According to documents filed in the U.S. Bankruptcy Court for the Eastern District of Michigan in Detroit, Plastech had been blasted with about \$29 million worth of 503(b)(9) claims as of July 14 -- a nuisance given that a plan can't be confirmed in a Chapter 11 setting unless administrative claims, such as 503(b)(9)s, are paid off in full and in cash.

Plastech carried out painstaking talks with its lenders and unsecured creditors, eventually coming to a settlement that allowed it to use some of **the proceeds from its asset sales** to pay \$17.5 million toward allowed 503(b)(9) claims. But that figure doesn't even cover two-thirds of the filed claims, so Plastech finds itself in the midst of a drawn-out process to analyze each claim and fight it. And this will all have to happen before a hearing later this year when the actual allowed figure will be established. It all makes for perhaps the most high-profile 503(b)(9) fight to date. - *Ben Fidler*

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