

RECENT CASES

ARTICLE III STANDING — INTANGIBLE INJURIES — SEVENTH CIRCUIT HOLDS THAT “PSYCHOLOGICAL STATES” CAUSED BY DEBT COLLECTION LETTERS ARE NOT CONCRETE INJURIES. — *Pierre v. Midland Credit Management, Inc.*, 29 F.4th 934 (7th Cir.), *reh’g and reh’g en banc denied*, 36 F.4th 728 (7th Cir. 2022), *cert. denied*, 143 S. Ct. 775 (2023).

In order to be “concrete” — a necessary condition for Article III standing to sue in federal court — a plaintiff’s injury must typically bear “a close relationship to harms traditionally recognized as providing a basis for lawsuits in American courts.”¹ While “physical” and “monetary” harms “readily qualify as concrete injuries,” the Supreme Court also left the door open to “[v]arious intangible harms,” provided they have a “close historical or common-law analogue.”² Recently, in *Pierre v. Midland Credit Management, Inc.*,³ the Seventh Circuit shut that door for a wide range of intangible harms in the context of the Fair Debt Collection Practices Act⁴ (FDCPA). The court held that plaintiff Renetrice Pierre’s emotional distress caused by a debt collection letter urging her to make payments on a time-barred debt⁵ was not a concrete injury, holding instead that such “[p]sychological states” are insufficiently concrete.⁶ Instead of analyzing the potential relationship between Pierre’s injury and common law analogues, the court treated two of its earlier FDCPA cases as dispositive.⁷ But the facts in those two cases did not raise the common law analogue most relevant to Pierre’s case: the tort of intentional infliction of emotional distress (IIED). Instead, the two cases implicated only *negligent* infliction of emotional distress (NIED). This distinction is important because courts have traditionally required a physical injury for NIED⁸ but not for IIED.⁹ Thus, the two precedents alone cannot support the panel’s broad

¹ *TransUnion LLC v. Ramirez*, 141 S. Ct. 2190, 2204 (2021).

² *Id.*; see Cass R. Sunstein, *Injury in Fact, Transformed*, 2021 SUP. CT. REV. 349, 365 (2022).

³ 29 F.4th 934 (7th Cir. 2022).

⁴ 15 U.S.C. §§ 1692–1692p.

⁵ Known as “zombie” debts, time-barred debts have aged beyond the statute of limitations and are no longer legally enforceable. Renae Merle, *Zombie Debt: How Collectors Trick Consumers into Reviving Dead Debts*, WASH. POST (Aug. 7, 2019, 6:12 AM), <https://www.washingtonpost.com/business/2019/08/07/zombie-debt-how-collectors-trick-consumers-into-reviving-dead-debts> [<https://perma.cc/VV34-LZB4>]. But partial payment or even a promise to pay can restart the statute of limitations. *Pierre*, 29 F.4th at 942 (Hamilton, J., dissenting).

⁶ See *Pierre*, 29 F.4th at 939.

⁷ See *id.*

⁸ See RESTATEMENT (SECOND) OF TORTS § 313(1) (AM. L. INST. 1965); see also Brief of Amici Curiae F. Andrew Hessick & Amy J. Wildermuth in Support of Petitioner at 20, *Pierre* (No. 22-435) [hereinafter Hessick & Wildermuth Brief].

⁹ See RESTATEMENT (SECOND) OF TORTS § 46(1) (AM. L. INST. 1965); see also Hessick & Wildermuth Brief, *supra* note 8, at 20.

holding rejecting emotional distress. Had it analyzed Pierre's specific harms by analogy to IIED, the panel might have concluded that they were concrete. And because Pierre's case is distinguishable, the dissent's call to overrule circuit precedent is not necessary to vindicate the rights of people like Pierre who suffer emotional distress from letters intended to deceive recipients into paying time-barred debts.

In 2006, Pierre opened a credit card to purchase household goods for her and her son, accumulated debt, and later defaulted.¹⁰ Midland Funding purchased the debt and, in 2010, sued Pierre for the balance.¹¹ Pierre disputed the debt,¹² and Midland Funding dismissed its lawsuit.¹³ Years later, in 2015, Pierre received a letter from Midland Credit Management, a Midland Funding affiliate.¹⁴ Midland Credit was seeking payment to satisfy that same credit card debt.¹⁵ By 2015, the statute of limitations had run, and Pierre was no longer legally responsible for it.¹⁶ Indeed, Midland Credit's letter noted: "The law limits how long you can be sued on a debt. Because of the age of your debt, we will not sue you for it . . ."¹⁷ Instead, Midland Credit offered Pierre a limited-time offer to "settle" the debt by paying a percentage of its face value through a payment plan designed to "save [her] money."¹⁸ Pierre had only thirty days to accept the offer.¹⁹ The "prospect of a revived \$7,000 debt threatened her with financial catastrophe,"²⁰ and Pierre experienced "surprise," "confusion," and "emotional duress."²¹

On behalf of herself and a class of Illinois residents who received similar letters, Pierre sued Midland Credit for damages in federal court.²² Pierre claimed that the letter violated the FDCPA because it was a "deceptive" means of debt collection.²³ The district court certified the class and held for Pierre on summary judgment.²⁴

¹⁰ *Pierre*, 29 F.4th at 936; Petition for a Writ of Certiorari at 4, *Pierre v. Midland Credit Mgmt., Inc.*, 143 S. Ct. 775 (2023) (No. 22-435) [hereinafter *Certiorari Petition*].

¹¹ *Pierre*, 29 F.4th at 936.

¹² *Id.* at 943 (Hamilton, J., dissenting).

¹³ *Id.* at 936 (majority opinion).

¹⁴ *See id.*

¹⁵ *See id.*; *id.* at 943 (Hamilton, J., dissenting).

¹⁶ *See id.* at 937 (majority opinion).

¹⁷ *Id.* It also stated: "[W]e will not report it to any credit reporting agency, and payment or nonpayment of this debt will not affect your credit score." *Id.*

¹⁸ *Id.* at 936–37 (alteration in original); *id.* at 943 (Hamilton, J., dissenting).

¹⁹ *Id.* at 937 (majority opinion).

²⁰ *Id.* at 943 (Hamilton, J., dissenting).

²¹ *Id.*; *see also id.* at 937 (majority opinion).

²² *Id.* at 937 (majority opinion).

²³ *Id.*

²⁴ *Id.* The district court relied on *Pantoja v. Portfolio Recovery Associates, LLC*, 852 F.3d 679 (7th Cir. 2017). *Pierre*, 29 F.4th at 937. In *Pantoja*, the Seventh Circuit affirmed summary judgment against a debt collector that made similar promises not to sue in its letter offering to "settle" a time-barred debt. *See Pantoja*, 852 F.3d at 681–82, 684. Although *Pantoja* was helpful to Pierre on the merits, the panel rejected its relevance because it had not addressed standing. *See Pierre*, 29 F.4th at 939–40.

The Seventh Circuit vacated and remanded.²⁵ Writing for the panel, Chief Judge Sykes²⁶ held that Pierre lacked standing to sue.²⁷ The divided panel concluded that Pierre failed to demonstrate a “concrete injury.”²⁸ Concrete injuries can be “tangible” or “intangible,”²⁹ but they must bear “a ‘close relationship’ to a harm ‘traditionally’ recognized as providing a basis for a lawsuit in American courts.”³⁰ That Pierre suffered a “legislatively identified harm[]” was not enough.³¹

The court dismissed two arguments in support of concreteness. First, the panel rejected Pierre’s argument that Midland Credit’s letter created a risk of harm sufficient for concrete injury.³² Pierre argued that the letter, by encouraging her to make payments on the time-barred debt,³³ “risked restarting the [statute of] limitations period.”³⁴ But in *TransUnion LLC v. Ramirez*,³⁵ decided between oral argument and the panel’s decision,³⁶ the Supreme Court “clarified” that a “risk of harm [does not] qualify[] as a concrete injury” in damages suits.³⁷ For money damages, harms must “have in fact materialized.”³⁸ Because Pierre “didn’t make a payment, promise to do so, or [otherwise] act to her detriment in response” to the letter,³⁹ the harm had not materialized and thus was not concrete.⁴⁰

The panel compared Pierre’s risk of harm to that of two plaintiffs who also received “allegedly defective letters” from debt collectors and failed to establish standing.⁴¹ In *Casillas v. Madison Avenue Associates*,⁴² the letter “failed to specify that any dispute . . . must be made *in writing* to trigger certain statutory protections.”⁴³ In *Larkin v. Finance System of Green Bay, Inc.*,⁴⁴ the letter warned the plaintiffs about being “worthy of the faith put in [them] by [the] creditor.”⁴⁵ In

²⁵ *Pierre*, 29 F.4th at 936.

²⁶ Chief Judge Sykes was joined by Judge Brennan.

²⁷ *Pierre*, 29 F.4th at 936.

²⁸ *Id.* at 940; *see also id.* at 937 (“A plaintiff must have (1) a concrete and particularized injury in fact (2) that is traceable to the defendant’s conduct and (3) that can be redressed by judicial relief.” (citing *Lujan v. Defs. of Wildlife*, 504 U.S. 555, 560–61 (1992))).

²⁹ *Id.* at 938 (quoting *TransUnion LLC v. Ramirez*, 141 S. Ct. 2190, 2204 (2021)).

³⁰ *Id.* (quoting *TransUnion*, 141 S. Ct. at 2204).

³¹ *Id.*

³² *Id.* at 939.

³³ *See id.* at 936–37.

³⁴ *Id.* at 939.

³⁵ 141 S. Ct. 2190.

³⁶ *See Pierre*, 29 F.4th at 934, 936.

³⁷ *Id.* at 938 (citing *TransUnion*, 141 S. Ct. at 2210).

³⁸ *Id.* (citing *TransUnion*, 141 S. Ct. at 2210–11).

³⁹ *Id.* at 939.

⁴⁰ *See id.* at 938–39.

⁴¹ *See id.*

⁴² 926 F.3d 329 (7th Cir. 2019).

⁴³ *Pierre*, 29 F.4th at 938 (emphasis added) (citing *Casillas*, 926 F.3d at 332).

⁴⁴ 982 F.3d 1060 (7th Cir. 2020).

⁴⁵ *Pierre*, 29 F.4th at 938–39 (quoting *Larkin*, 982 F.3d at 1063).

both cases, the Seventh Circuit held that because the plaintiffs did not act “to [their] detriment” upon receiving the letters — even if the letters violated the FDCPA — “there was nothing for the court to remedy,” and the plaintiffs lacked standing.⁴⁶ The court reasoned that Pierre similarly “did not experience any harm” because she did not “act to her detriment.”⁴⁷

Next, the panel dismissed in one paragraph Pierre’s intangible injuries — confusion and emotional distress — as insufficient grounds for standing.⁴⁸ According to earlier Seventh Circuit cases, neither “confusion” nor “emotional distress” is a “concrete injury in the FDCPA context.”⁴⁹ Categorically, “[p]sychological states induced by a debt collector’s letter . . . fall short.”⁵⁰

Judge Hamilton dissented, arguing that Pierre had standing based on her intangible injuries.⁵¹ The dissent argued that the majority read the two controlling Supreme Court precedents — *Spokeo, Inc. v. Robins*⁵² and *TransUnion* — too narrowly when it rejected “[p]sychological states induced by a debt collector’s letter” as grounds for standing.⁵³ Although *Spokeo* and *TransUnion* noted that statutory violations do not, on their own, constitute concrete injuries, neither case foreclosed standing based on emotional injury.⁵⁴ According to the dissent, Pierre could satisfy the concreteness requirements of *Spokeo* and *TransUnion* by demonstrating that her intangible injury (1) “lie[s] close to the heart of the protection Congress” provided through the FDCPA, and (2) has a “close relationship[] to harms long recognized” by courts.⁵⁵

First, the dissent observed that Pierre suffered harms the FDCPA was enacted to remedy.⁵⁶ Midland Credit’s letter was “carefully designed to try to induce her to surrender her statute of limitations defense” by making a payment.⁵⁷ The letter naturally left Pierre “confused and afraid that she might be sued again on [the] debt.”⁵⁸ Her “emotional distress, confusion, and anxiety . . . fit well within the harms” Congress would expect from the “abusive practices” it proscribed in the FDCPA,⁵⁹

⁴⁶ *Id.* (citing *Casillas*, 926 F.3d at 339; *Larkin*, 982 F.3d at 1066–67).

⁴⁷ *Id.* at 939.

⁴⁸ *Id.*

⁴⁹ *Id.* (collecting cases).

⁵⁰ *Id.*

⁵¹ *Id.* at 940 (Hamilton, J., dissenting).

⁵² 136 S. Ct. 1540 (2016).

⁵³ *Pierre*, 29 F.4th at 943 (Hamilton, J., dissenting); *see id.* at 944.

⁵⁴ *See id.* at 945–46. In fact, the Court in *TransUnion* explicitly left open the question whether emotional harm by analogy to the tort of IIED “could suffice for Article III purposes.” *TransUnion LLC v. Ramirez*, 141 S. Ct. 2190, 2211 n.7 (2021).

⁵⁵ *Pierre*, 29 F.4th at 946 (Hamilton, J., dissenting).

⁵⁶ *See id.* at 941–43.

⁵⁷ *Id.* at 941.

⁵⁸ *Id.* at 943.

⁵⁹ *Id.* at 946.

and the Act's private civil action provision provided a remedy for such harms.⁶⁰

Second, the dissent argued that Pierre's intangible harms "bear close relationships to those recognized in both tort law and constitutional law."⁶¹ Her emotional distress was a "foreseeable" response to Midland Credit's attempts to collect a time-barred debt and thus analogous to the tort of IIED.⁶² Because "the common law has long authorized damages for emotional distress in a wide range of cases lacking tangible injury," the majority's rejection of standing based on "psychological states" was mistaken.⁶³ The Constitution also "protects people from . . . emotional distress."⁶⁴ In sum, "Pierre's statutory claim and intangible injuries fit closely in legal history and tradition."⁶⁵

Finally, Judge Hamilton criticized the Seventh Circuit for restricting standing in recent FDCPA decisions.⁶⁶ The dissent summarized six recent cases that the *Pierre* majority "follow[ed]" and "relie[d]" upon to reject 'psychological states,' such as emotional distress, anxiety, and confusion.⁶⁷ Because these FDCPA precedents "paid only lip service" to *Spokeo* and *TransUnion*, they erred in "brush[ing] off intangible harm[s]" as insufficiently concrete.⁶⁸ Judge Hamilton urged the court to "overrule these cases' rejections of standing based on emotional distress . . . and other psychological harm caused by FDCPA violations."⁶⁹

A majority of the Seventh Circuit denied rehearing en banc,⁷⁰ and Judge Hamilton, joined by three colleagues, dissented.⁷¹ The dissent largely reiterated Judge Hamilton's argument that Pierre's intangible harms satisfied the two requirements laid out in *Spokeo* and *TransUnion* and were thus concrete enough to establish Article III standing.⁷²

Pierre's emotional harm was caused by a deceptive letter designed to induce her to pay a time-barred debt. It was plausibly analogous to

⁶⁰ See *id.* at 941–42 (citing 15 U.S.C. § 1692k).

⁶¹ *Id.* at 947.

⁶² *Id.*

⁶³ See *id.* at 948. Judge Hamilton also analogized to the common law torts of defamation and invasion of privacy. *Id.* at 947.

⁶⁴ *Id.* at 948–49 (citing as examples violations of the First, Fourth, and Eighth Amendments).

⁶⁵ *Id.* at 949.

⁶⁶ See *id.* at 953. He also observed that other circuits are "less restrictive" than the Seventh Circuit "in allowing standing for intangible injuries under the FDCPA," *id.*, and "conclude[d]" by noting some of the larger consequences and implications of [his circuit's] errors," *id.* at 955.

⁶⁷ *Id.* at 950; see *id.* at 950–53.

⁶⁸ *Id.* at 953.

⁶⁹ *Id.*

⁷⁰ *Pierre v. Midland Credit Mgmt., Inc.*, 36 F.4th 728, 729 (7th Cir. 2022) (mem.).

⁷¹ *Id.* (Hamilton, J., dissenting). Judge Hamilton was joined by Judges Rovner, Wood, and Jackson-Akiwumi.

⁷² See *id.* at 729–36. The dissent also rejected Midland Credit's argument that Pierre's deposition and testimony did not sufficiently evince emotional distress. *Id.* at 737. And it argued that Pierre had not "waived reliance on common law analogs" because *TransUnion* and the circuit precedents cited by the panel were decided after oral argument. *Id.*

the harm caused by IIED, a common law tort that does *not* require an accompanying physical injury to be judicially cognizable.⁷³ But instead of analyzing whether Pierre’s intangible harms bore a “close relationship”⁷⁴ to the common law analogue of IIED to determine whether her injury was concrete,⁷⁵ the panel cited two prior Seventh Circuit cases to categorically reject the concreteness of emotional distress caused by debt collection letters.⁷⁶ These two cases, however, involved emotional distress caused by *routine* debt collection efforts accompanied by merely procedural FDCPA violations.⁷⁷ Such harm is more akin to *negligent* infliction of emotional distress, a common law tort that has historically required a showing of physical injury.⁷⁸ Because the two earlier cases were factually distinct from Pierre’s and concerned only NIED, they cannot be dispositive as to the concreteness of Pierre’s emotional distress, which was plausibly *intended* by Midland Credit. Had the panel distinguished the cases and analyzed Pierre’s specific harms by analogy to IIED, it may have concluded that they were concrete. In so doing, the Seventh Circuit could have allowed standing for plaintiffs like Pierre and still preserved its precedent rejecting standing in cases of emotional distress caused by other debt collection efforts.

The fact patterns in the two cases on which the panel relied to hold that Pierre’s emotional distress was not concrete were distinguishable and did not implicate IIED. In *Wadsworth v. Kross, Lieberman & Stone, Inc.*,⁷⁹ Wadsworth was contractually obligated to repay a signing bonus to her former employer.⁸⁰ In its effort to collect the debt, a collection agency sent Wadsworth a letter and called her four times.⁸¹ After receiving these informationally deficient communications, she felt “intimidated, worried, and embarrassed.”⁸² Wadsworth did not dispute the validity of the debt and claimed that the agency violated the FDCPA only by failing to provide certain basic information during its collection efforts.⁸³ The Seventh Circuit held that her “emotional harms” were not concrete injuries.⁸⁴ Notably, nothing suggests that the procedural FDCPA violations themselves were intended to induce Wadsworth to

⁷³ See sources cited *supra* note 9.

⁷⁴ *TransUnion LLC v. Ramirez*, 141 S. Ct. 2190, 2204 (2021).

⁷⁵ For background on IIED as a common law analogue for standing purposes, see Certiorari Petition, *supra* note 10, at 18–19; Brief of Amicus Curiae Public Citizen in Support of Petitioner at 10–11, *Pierre v. Midland Credit Mgmt., Inc.*, 143 S. Ct. 775 (2023) (No. 22-435).

⁷⁶ See *Pierre*, 29 F.4th at 939 (citing *Wadsworth v. Kross, Lieberman & Stone, Inc.*, 12 F.4th 665 (7th Cir. 2021); *Pennell v. Glob. Tr. Mgmt., LLC*, 990 F.3d 1041 (7th Cir. 2021)).

⁷⁷ See *Wadsworth*, 12 F.4th at 666–67; *Pennell*, 990 F.3d at 1043.

⁷⁸ See sources cited *supra* note 8.

⁷⁹ 12 F.4th 665.

⁸⁰ See *id.* at 666.

⁸¹ *Id.*

⁸² *Id.* at 668.

⁸³ See *id.* at 666–67. Wadsworth claimed that the agency did not provide timely notice of her statutory rights and that its employee failed to identify herself as a debt collector. *Id.*

⁸⁴ See *id.* at 668–69.

make payments or to elicit her emotional distress.⁸⁵ Instead, the court saw her distress as a natural consequence of routine debt collection, unrelated to the communication's technical noncompliance with the FDCPA's informational requirements.⁸⁶ It reasoned that "federal courts may entertain FDCPA claims only when the plaintiff suffers a concrete harm that he wouldn't have incurred had the debt collector complied with the Act."⁸⁷

And the plaintiff in *Pennell v. Global Trust Management, LLC*⁸⁸ had a similar emotional reaction to routine debt collection. After defaulting on a loan, Pennell refused to pay and asked that future communications stop.⁸⁹ The original lender later sold the debt to another entity, which, unaware of her request, sent Pennell a collection letter for the outstanding debt.⁹⁰ Pennell experienced "stress" upon receiving the letter⁹¹ and sued the entity for violating the FDCPA by communicating directly with her instead of her lawyer.⁹² The court held that her "stress" was not a concrete harm because she "failed to show that receiving [the] letter led her to change her course of action or put her in harm's way."⁹³ Like in *Wadsworth*, there was no indication that the debt collector intended to cause Pennell's emotional reaction through its procedural violation.⁹⁴

Because their facts implicated only NIED, these two cases cannot support the court's much broader holding in *Pierre* that *all* injuries of emotional distress caused by FDCPA-deficient letters are not concrete. In *Pennell*, the debt collector clearly had no intention of causing emotional injury.⁹⁵ In *Wadsworth*, the court emphasized that the plaintiff would have likely suffered the same emotional distress had the debt collector fully complied with the FDCPA.⁹⁶ Thus, because there was no evidence suggesting that the *Pennell* and *Wadsworth* debt collectors intended to cause emotional distress, the harms in these two cases did not bear a "close relationship" to the common law tort of IIED. If anything, the court implied that these harms were akin to NIED, given that it emphasized the emotional distress had no "physical manifestations"⁹⁷ — and courts have historically "refused to impose liability" for

⁸⁵ See *id.* at 666–68.

⁸⁶ *Id.* at 669 ("Being informed of an outstanding debt can sometimes be a stressful experience . . .").

⁸⁷ *Id.*

⁸⁸ 990 F.3d 1041 (7th Cir. 2021).

⁸⁹ See *id.* at 1043.

⁹⁰ See *id.*

⁹¹ *Id.* at 1045.

⁹² *Id.* at 1043.

⁹³ *Id.* at 1045.

⁹⁴ See *id.* at 1043. The collector was not even aware that Pennell had hired counsel and requested that the lender stop contacting her, and it immediately ceased contact after sending the one letter. *Id.*

⁹⁵ *Id.*

⁹⁶ See *Wadsworth v. Kross, Lieberman & Stone, Inc.*, 12 F.4th 665, 669 (7th Cir. 2021).

⁹⁷ *Pennell*, 990 F.3d at 1045; see *Wadsworth*, 12 F.4th at 668 (citing *Pennell*, 990 F.3d at 1045).

NIED absent “some physical injury.”⁹⁸ *Pennell* and *Wadsworth* cannot be dispositive about concreteness in *Pierre*, where an analogy to IIED, a common law analogue that does *not* require physical injury, is more apt.

In contrast to *Pennell* and *Wadsworth*, it is plausible that Midland Credit *intended* its letter to cause emotional distress specifically to deceive Pierre into making payments on a debt she no longer owed. Some debt collectors rely on “deception” to “trick” people into resetting the statute of limitations by making nominal payments on their time-barred debts.⁹⁹ Midland Credit’s letter offering a “discount program”¹⁰⁰ was “designed” to “induce” and “pressure” Pierre to make a payment and fall into that “legal trap.”¹⁰¹ Unlike the debts in *Pennell* and *Wadsworth*, which were recently incurred and legally enforceable,¹⁰² Pierre’s debt was time-barred: she incurred it nine years before getting the letter, successfully rebuffed a lawsuit, and was no longer responsible for paying it.¹⁰³ The whole ordeal was behind her, and she had planned her life around no longer owing the debt.¹⁰⁴ But upon receiving a letter out of the blue that presented a fleeting opportunity to repay the stale debt at a discount, Pierre was “extremely distressed.”¹⁰⁵ The uncertain prospect of once again owing seven thousand dollars “threaten[ed] her with financial ruin.”¹⁰⁶

Pierre’s injury was distinct from the unintended stress caused by the run-of-the-mill debt collection efforts in *Pennell* and *Wadsworth*. Pierre’s emotional distress was plausibly intentionally induced for the specific purpose of deceiving Pierre into acting against her interests by paying a time-barred debt. Had the Seventh Circuit considered this intentionality, it might have reasoned that Pierre’s harms bore a close relationship to IIED and were thus concrete. And by properly distinguishing *Pierre* from its earlier FDCPA cases, the court could have granted standing here without disturbing circuit precedents like *Pennell* and *Wadsworth*, which concerned the unintended distress triggered by being reminded of a legally outstanding debt through communications that violate an informational provision of the FDCPA.¹⁰⁷

⁹⁸ See Hessick & Wildermuth Brief, *supra* note 8, at 20.

⁹⁹ See generally Merle, *supra* note 5.

¹⁰⁰ *Pierre*, 29 F.4th at 936.

¹⁰¹ *Id.* at 941–42, 948 (Hamilton, J., dissenting); see *Pierre v. Midland Credit Mgmt., Inc.*, No. 16 C 2895, 2018 WL 723278, at *6–7 (N.D. Ill. Feb. 5, 2018) (finding letter “misleading and deceptive,” *id.* at *7).

¹⁰² See *Pennell*, 990 F.3d at 1043; *Wadsworth*, 12 F.4th at 666.

¹⁰³ See *Pierre*, 29 F.4th at 936–37; Certiorari Petition, *supra* note 10, at 4.

¹⁰⁴ See *Pierre*, 29 F.4th at 943 n.4 (Hamilton, J., dissenting) (“In the case of an out-of-statute zombie debt, however, the effort to collect is an attempt to re-open a closed chapter. That may easily cause significant additional distress and anxiety, as Pierre’s testimony described.”).

¹⁰⁵ Certiorari Petition, *supra* note 10, at 4–5.

¹⁰⁶ *Id.*

¹⁰⁷ See *Pennell*, 990 F.3d at 1043; *Wadsworth*, 12 F.4th at 666–67.